1985

Investiture of Judge Roger J. Miner, U.S. Circuit Judge, United States Court of Appeals for the Second Circuit

Roger J. Miner ’56

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Judge Roger J. Miner
Investiture
September 14, 1985

Judge Oakes and colleagues on the bench; fellow Judges in the audience, federal and state; Senator D'Amato; Congressmen Solomon and Fish; Mayor Whalen; brothers and sisters at the bar; my family and friends:

It is a great honor for me to occupy a seat on this distinguished Court. My wife, Jackie, shares this honor with me, of course. She has made many sacrifices for me, and it is because of her that I am here. She is a woman of formidable talents, having pursued several successful careers. Although I am constrained to avert my eyes from such things, I am given to understand that her political talents are especially formidable. In any event, I can say no less of her than the man who appointed me to this position said of his wife: "She's my everything."

We are very grateful to all of you for taking the time to attend this ceremony today. Many of you have traveled long distances to be with us. Our four sons also covered quite a bit of ground to be here - Larry from his job in Lake Elsinore, California; Ronald from the Florida Institute of Technology at Melbourne; and Ralph and Mark from Michigan State University at East Lansing. We are very proud of all of them.

We are especially grateful to our speakers, whose kind words and wise advice are much appreciated - to Howard Munson, a great Chief Judge of the Northern District, a great friend, and a fine companion; it was a pleasure to serve under his leadership; to Ralph Lancaster of Maine, a lawyer of such outstanding reputation
that he was called upon to represent the United States Government before the International Court of Justice; Justin Vigdor, the distinguished President of the New York State Bar Association, who came down from Rochester to be with us today; Len Weiss, with whom I served on the State Trial Bench and who shared chambers with me in Brooklyn during a subway strike some years ago; luckily, he had a car and the whole mess was somewhat ameliorated by the fine dinner we had with the Mayor at Gracie Mansion; Jim Foley, my mentor in the District Court, who taught me more about the federal judiciary and the human condition than I ever learned from any book; he also taught me to stay away from Saratoga in August; Ham Fish, whose friendship Jackie and I have valued for more than 20 years; we well remember his second campaign for Congress. I was practicing law in Hudson at the time, and another candidate interested in the Republican nomination came around seeking our support; we told him that we felt Ham was the man and never regretted the choice. The other candidate was G. Gordon Liddy; Jerry Solomon - a long-time friend and my own Congressman; I'll always remember the great stem-winder of a speech Jerry made before the Senate Judiciary Committee in support of my nomination to this bench. And, of course, to Senator Al D'Amato, who has spoken in my behalf on many occasions and in many places. I am grateful indeed for all his encouragement, support and confidence. In recognizing Al D'Amato at my confirmation hearing, Senator Thurmond remarked that Al is held in high esteem by his colleagues in the Senate. It seems to me that there are many New Yorkers who hold him in very high
esteem indeed, and I am privileged to be one of them. I am grateful to Jim Oakes, my new colleague, for coming down from the Green Mountain State of Vermont to convene this Court in Albany for the first time in history. I have said on many occasions that I am a great admirer of his and very much look forward to serving with him on the Circuit Court. Thanks also to my former comrade-in-arms in the Northern District, Neal McCurn, who has graciously joined us on the bench.

I take this occasion to extend my heartfelt thanks to the President, who not only appointed me to this Court but who was kind enough to call and chat about my nomination; to Attorney General Meese and Presidential Counsel Fielding; to Senator Thurmond and his right-hand man, Duke Short, for expediting the process of advice and consent; and to Congressmen Jack Kemp, George Wortley, Ben Gilman, Sam Stratton and to Senator Pat Moynihan.

Thanks also are due to a number of old and new friends in Washington for all their help - Art Jutton, Nick Hayes, Dennis Howe, Helen Cameron, Commissioner Dennis Patrick, and Ambassadors Jean Gerard and Faith Whittlesey. Special thanks to John O'Mara and Bill Powers for their steadfastness, to Dean James F. Simon and the faculty at New York Law School for their assistance in many things; to my former professor at New York Law School, Roy Cohn, who taught and still teaches loyalty, commitment, and kindness as well as the law; it is a special privilege to call him friend; to Roy's partner, Dr. Tom Bolan, whose life exemplifies the best qualities of charity and justice; to my
chambers staff, to Joe Scully, to the GSA, the Marshals, Lance Wheeler, my family, to all who helped with the arrangements - to all of you, thank you, thank you. Oh yes, one final thank you. Four years ago I publicly thanked Dr. Stanley Bardwell of Hudson for certifying to the Government that I was mentally competent to serve as a federal judge. He has made the same certification this year and I thank him again. I still am afraid to ask what standard he uses in formulating his opinion.

As I take this seat, I am mindful of the important responsibilities I am assuming. I approach those responsibilities with a firm resolve to bring to each case an open mind and a sense of fairness. As a lawyer and a trial judge, I have long been aware of the overriding concerns of litigants for impartiality and objectivity in the decisional process. Those concerns will continue to be of paramount importance to me as an appellate judge.

I bring to this Court a fierce desire to do justice in accordance with the oath I have just taken and to use all the diligence, all the skills and all the effort I can bring to bear in carrying out my judicial duties. I also bring an awareness of the constitutional and pragmatic limitations on the role of the federal judiciary in our society. Our Constitution establishes a separation of powers among the branches of the federal government as well as a deliberately measured allocation of authority between the states and the federal government. We Judges are constrained by our oaths to respect the restraints on judicial power envisioned by this system. I believe that compliance with
the constitutional mandate requires strict adherence to the interpretive function of the courts and a healthy respect for the American political process. As to pragmatic constraints, Judge Alfred Conkling Coxe of Utica, who served as a judge of the Northern District before his appointment as a Circuit Judge in 1902, said: "We have yet to learn that there are some inconveniences, annoyances and even faults which cannot be remedied by law." It seems to me that the lesson taught by Judge Coxe has not yet been learned and that it is still an all too popular misconception that every conflict must find a remedy in a court of law. This misconception has fostered an ever-expanding federal court jurisdiction, and now we face a massive judicial gridlock occasioned by the overburdening of the federal courts. It should be apparent that there are only so many things that courts can do.

My immigrant grandparents referred to this great nation as "The Golden Land." They never ceased to be awed by the freedoms, the opportunities and the individual liberties that were available to them in their adopted country. "Only in America," they would say. As naturalized citizens, they had special feelings of love, support and devotion for this country, and they passed those feelings on to their children and grandchildren. I wish that they could be here today to witness this ceremony and to say, once again, "Only in America."

I conclude with some assurances. When I first became a judge 10 years ago, my father told me never to forget that I was a lawyer. He has reminded me of that admonition frequently since
that time. Whenever he gets an adverse decision from some judge, he reminds me of it. I assure him again that I shall never forget that I practiced law. Since I was appointed to the Circuit Court, Judge Foley has advised me, on more than one occasion, never to forget that I was a trial judge. I think that his advice comes whenever any District Judge is reversed by the Circuit. I assure him that I shall never forget that I was a trial judge. To my new colleagues, I pledge my loyalty and esteem as well as respect for the traditions of the Court and the principle of collegiality. I reserve the right to dissent, however. To all of you, I pledge to continue to do whatever is necessary to merit your confidence, to be worthy of this great Court and to assure justice for all - the brightest promise of this Golden Land. Thank You.
August 30, 1985

TO: WF

Re: INVESTITURE CEREMONY - September 14, 1985

MEMORANDUM OF RJM

1. Per your request, there follows the list of speakers scheduled to deliver remarks at my Investiture Ceremony. Each speaker has been allocated 3-4 minutes.

   Mr. Ralph I. Lancaster, Jr.
   Standing Committee on Federal Judiciary,
   American Bar Association

   Mr. Justin Vigdor, President
   New York State Bar Association

   Hon. Leonard A. Weiss, Justice
   New York State Supreme Court
   Appellate Division, Third Department

   Hon. James T. Foley, Senior Judge
   United States District Court
   Northern District of New York

   Hon. Hamilton Fish, Jr.
   United States House of Representatives
   Committee on the Judiciary

   Hon. Gerald B. Solomon
   United States House of Representatives
   Twenty-Fourth Congressional District

   Hon. Alfonse M. D'Amato
   United States Senate

2. All those participating in the program are scheduled to meet in my chambers for brunch at 11:00 A.M. and to proceed directly from my chambers to the courtroom for the commencement of the ceremony at noon.
INVESTITURE

OF

THE HONORABLE ROGER J. MINER

as a

CIRCUIT JUDGE

of the

UNITED STATES COURT OF APPEALS

for the

SECOND CIRCUIT

* * * * * * * * *

UNITED STATES COURTHOUSE

ALBANY, NEW YORK

SEPTEMBER 14, 1985

Twelve O'Clock Noon
ON THE BENCH

HON. JAMES L. OAKES, Judge
U.S. Court of Appeals, Second Circuit

HON. HOWARD G. MUNSON, Chief Judge
U.S. District Court, Northern District of New York

HON. NEAL P. MC CURN, Judge
U.S. District Court, Northern District of New York

HON. JAMES T. FOLEY, Senior Judge
U.S. District Court, Northern District of New York
THE BAILIFF: Hear ye, hear ye: Any persons having any business before this Honorable Court of Appeals of the United States in and for the Second Circuit draw near; give your attention and you shall be heard. God save the United States and this Honorable Court. The Honorable James L. Oakes presiding. You may be seated. Court is now in session.

HON. JAMES L. OAKES: Good morning. Welcome.

The Court of Appeals for The Second Circuit convenes in extraordinary session today in the New York State Capital with the happy purpose of inducting Roger J. Miner as the 53rd appointee to the Court in the 116 years since Congress provided for judges exclusively assigned to Circuit Courts. As acting Chief Judge today, I take great pleasure in welcoming him on behalf of all of my colleagues who join in sending him best wishes.

It should be noted that present today here in Albany are the following judges: former Chief Judge of the Northern District of New York, Jim Foley; Chief Judge Howard G. Munson and Judge Neal McCurn also of the Northern District. Sitting in the audience are former Chief District Judge of the Southern District of New York, David Edelstein; Judge Lee Gagliardi now of Vermont but who will be assisting the Northern District here in Albany,
and Judge Charles L. Brieant also of the Southern District
We are also honored by the presence of Justice Leonard
Weiss of the Appellate Division of the New York State
Supreme Court and Judge Joseph Gagliardi, New York judge.
We are also honored and pleased to be joined by the
distinguished United States Senator from New York, Alfonse
D'Amato, without whose advice and consent these proceeding
could not have taken place, and two Congressmen, Gerald
Solomon and Hamilton Fish, Jr., friends of the Miner
family. The State and National Bar Associations are well
represented here today by Justin Vigdor, President of the
New York State Bar and Ralph Lancaster, Jr. of the
American Bar Association Standing Committee on the Federal
Judiciary. More important, perhaps, we welcome, of course,
Judge Miner's effervescent wife, Jacqueline, and their
sons, Laurence, Mark, Ronald and Ralph to our court family.
We also welcome Judge Miner's brother, Lance, and, most
especially, his father, Abram. What a joyful way to
celebrate his 59th year of law practice.

We are particularly delighted to induct
Judge Miner at this time because his presence will serve
to grace our Court. His well-known scholarship, his good
judgment and keen sense of justice, coupled with his
balanced recognition of the fact that individual freedom
and liberty carry with them responsibility and duties to
others will all add to our Court's stature.

Research discloses that Judge Miner is the Circuit's first judge from the Town of Hudson; although, this part of New York State, right across from the Vermont border, so to speak, has produced some of our most illustrious -- I come from Vermont -- judges, including the now legendary Chief Judge Learned Hand and his cousin, Judge Augustus Hand, who came from Albany and Elizabeth-town, respectively.

This induction is a significant one for the Northern District of New York of which Judge Miner himself has boasted that it has, and I'm quoting him, the most scenic location, the most colorful bench and bar and the most significant cases in the Second Circuit. Although Judge Miner is the first emissary from the north in recent years, two of your northern colleagues, other than the Hands, have journeyed south to join the Court of Appeals well in the past. Judge William Wallace came to the Second Circuit from this district in 1882 and eventually became its presiding judge. In 1902, he was joined by former Northern District Judge Alfred C. Coxe. It is fitting that, once again, the Northern District be so ably represented.

Judge Miner is a distinguished alumnus of New York Law School, the first on our Court, I believe.
Judge Miner's experience as managing editor of his Law Review is evident to all who read his carefully-wrought opinions. His modest history of the Northern District, delivered a year ago last April before an appreciative audience at the United States Courthouse in Foley Square, covered the period from the Pleistocene epic to the present and contained over 200 footnotes, further proof of that Law Review experience.

With that sparkling lecture, he has sparked a controversy with Judges Cabranes and Timbers, as well as all the judges of the Southern District, as to whether Connecticut or the Northern District of New York or the Southern District can rightly claim to be the mother court of the Second Circuit. In the interest of harmony in the Circuit and as a Vermonter, I hope that they can speedily resolve this historical dispute.

Judge Miner brings to our Court a wealth of experience. He continues a long career of public service beginning in the army where he served on the Judge Advocate General's Corps, then as a city attorney for his hometown of Hudson, as Assistant District Attorney and District Attorney for Columbia County, as a State Supreme Court Justice and, finally, since September 28th, 1981, as District Court Judge for the Northern District. I may say that we former district court judges now
constitute a solid majority on the Court of Appeals and we're happy about that.

In the almost four years that Judge Miner sat on the District Court, my colleagues and I have had a number of opportunities to review his opinions. As you would expect, you, his friends and family, we have affirmed the vast majority of them, often, perhaps even usually, on the reasoning he has set forth. We trust that like the Yankees and the Mets in the next World Series the forthcoming World Series, Judge Miner will continue to play virtually error-free ball on his new team; though, as one whose opinions are occasionally reversed by the Supreme Court, I, we all, know, in Justice Jackson's words, that that Court is not final because it is infallible; it is infallible only because it is final, and on the Court of Appeals, we pretend not to more infallibility than other courts composed of the same frail material of which we are composed.

We will now hear from several of the people whom I have just mentioned. First, leading off will be Honorable Howard G. Munson, Chief Judge of this Northern District.

HON. HOWARD G. MUNSON: Thank you, Judge Oakes.

You'll be happy to hear that I have not
prepared any remarks. You also might be happy to hear that I forgot my robe and I had to borrow one of Judge Miner's, so I'm very apt to be correct this morning. I should tell you that one time Judge McCurn borrowed one of my robes and stormed off the bench and said that he'd made five quick mistakes and it was because he had my robe on.

In other circuits and on other occasions, I have heard of district court judges being, if I may use the word, elevated to the Second Circuit or to their circuit, I should say. Some lawyers on those occasions have made remarks such as, well, both courts will benefit. That's not so in this case. I do think that Judge Miner will do an excellent job on the Second Circuit, but he has done an excellent job for the Northern District. All one has to do is look at the statistics and the way that he has handled his job.

Judge Miner I consider a friend. I am sad to see him go. I do not know whether we will be able to get someone to replace him that will be as energetic, as intelligent and as good as he was at his job. Look at the statistics some time. Statistics, I know, lie, but in this case they do not. Judge Miner was a great addition to this bench and we are very sorry to lose him. I do hope, however, that since he only held this job for
four years, he has at last found a steady job.

I thank you.

HON. JAMES L. OAKES: Thank you, Howard.

Now you can see how helpless judges are without either a spouse or a secretary or a law clerk present, which is the situation that I'm in today, because I overlooked mentioning some of our very special guests in the audience and it took me -- I'm just slightly out of step here.

I would like to introduce and recognize the presence here of Thomas Whalen, Mayor of the City of Albany; Reverend Doctor Laman Bruner, Rector of St. Peter's Protestant Episcopal Church of Albany; Gerald Crotty, Secretary to Governor Cuomo; Lawrence Cooke, former Chief Judge of New York and a great judge; James Simon, Dean of New York Law School, a fine law school; John Feerick, Dean of Fordham Law School and Jean Gerard, the United States Ambassador Designate to Luxemborg. We are delighted that all of you are here, and if I've overlooked anybody else, just chalk it up to the absence of the people that I mentioned.

Now, the next speaker is Mr. Ralph Lancaster, Jr. of the Standing Committee on the Federal Judiciary of the ABA. Ralph.

RALPH I. LANCASTER, JR.: May it please
the Court, it is my pleasure to be at these ceremonies
today representing the American Bar Association's
Standing Committee on the Federal Judiciary.

The Committee consists of one member from
each judicial circuit, and if I may digress momentarily,
as many of you know, the Second Circuit member is my good
friend and that fine lawyer, Bob MacCrate. Because of
the large number of investigations Bob had to conduct,
it was my good fortune to be asked to investigate Judge
Miner.

The Committee has no candidates of its own.
Its function is to receive names of prospective nominees
from the Attorney General, conduct an investigation of
their qualifications and report the results of that
investigation to the Attorney General and to the United
States Senate. Since a major portion of the investigation
consists of interviews with judges and lawyers, in a very
real sense, the Committee serves as a conduit of the
thinking and the views of the bench and the bar. Those
views are communicated directly to the Attorney General
and to the Senate.

In the case of a sitting federal judge,
the investigation consists of a thorough review of the
judge's writings, including his written opinions and,
again, may I digress momentarily to commend to you the
article which Judge Oakes mentioned about the history of the Northern District of New York which was authored by Judge Miner, with substantial research, I might add, by Mrs. Miner. It is a piece well worth reading.

In addition to reading all of those written opinions, the investigation includes interviews with judges of this Court, interviews with judges of the district court and interviews with a wide variety of the attorneys who have appeared before Judge Miner. The results are independently analyzed by each of the members of the Committee, all of whom share the goal of achieving excellence in judicial appointments.

I'm very pleased to report that as a result of its investigation, the Committee found Judge Miner well-qualified for service on this Court, and under the Committee's guidelines, that means that Judge Miner received the Committee's affirmative endorsement as being one of the best available for the appointment, from the standpoint of competence, integrity and temperament, as well as general reputation in professional and community circles.

Judge Miner has been an outstanding District Judge who will be missed in the trial court, as Judge Munson indicated, both by other district judges whose workloads he alleviated by his legendary capacity
for hard work and by the many lawyers for whom he made
trying cases in his courtroom a thoroughly enjoyable
experience. As a result of his elevation to this Court,
he will have the opportunity to dispense justice to
lawyers and litigants from other districts as well.

On behalf of the American Bar Association,
we congratulate Judge Miner on his appointment and extend
our best wishes for a long and successful and happy career
as a member of this illustrious Court.

HON. JAMES L. OAKES: Thank you, Mr.
Lancaster.

Our next speaker will be Mr. Justin Vigdor,
President of the New York State Bar Association. Justin
Vigdor.

JUSTIN L. VIGDOR: May it please the Court
and distinguished guests and friends and family of Judge
Miner, it's a very great privilege for me to be here
this morning to represent the 45,000 members of the New
York State Bar Association in paying tribute to Judge
Miner on this very happy occasion.

Mark Twain, whose pungent wit I love, once
commented that man was made at the end of the workweek
when God was very tired. Judge Miner clearly must have
been an exception to that rule, because there is no
evidence whatever that God was tired at the time.
Since I'm under injunction to speak for no more than five minutes and since normally that's how long a lawyer requires for a few remarks before a prepared talk, I'm not constrained to review Judge Miner's accomplishments which are so well-known to this audience and friends and admirers.

He has had a distinguished career in public service as Corporation Counsel, District Attorney, New York Supreme Court Justice and District Court Judge. He has had a career in academia as adjunct faculty at Columbia-Greene Community College and the State University at Albany. He's been active in professional organizations, the American Bar Association, our own New York State Bar Association, American Judicature Society. He has been influential and active in community affairs of all sorts, numerous committees, historical committees, United Way, B'nai B'rith, service clubs of all kinds. To each of these organizations he has brought his own blend of vitality and talent and, accordingly, he has been honored by numerous groups such as his law school, the New York Law School; the Albany Jewish Federation, Columbia County Elks, Kiwanis, Rotary clubs and others.

I was delighted to chat with Judge Miner in his chambers before this and to learn that we share a common experience. We both served at roughly the same
time in the United States Judge Advocate General's Corps, and recounting those experiences was a very pleasant event for me which made this even more delightful an occasion.

I'd like to remind you of something that Justice Oliver Wendell Holmes said early in his own judicial career. He said of the law, "What a profession it is. No doubt everything is interesting when understood and seen in connection with the rest of things. Every calling is great when greatly pursued, but what other gives such scope to realize the spontaneous energy of one's soul? In what other does one plunge so deep in the stream of life, to share its passion, its battles, its despairs, its triumphs, both as witness and as actor?"

Judge Miner has been both a great witness and a great actor. He has given to the law that sort of devotion that a knight gave in legend to a lady and that a devout person gives to his religion or a great statesman to the principles of his party.

As New York State Supreme Court Justice and as District Court Judge, he demonstrated solid intellect, superior judgment, great love for the law and the role it plays in our society and a deep respect for the bar and the bench, and now we honor him as he assumes his share of the burdens of the Circuit Court of Appeals where the number of appeals has increased eight-fold since
1960 and shows no sign of abating.

He will be the first Second Circuit Judge to be chambered in Albany. The other judges of this district and the lawyers of this district will miss his presence here. I assume, however, that many of the lawyers will not lament the passing of the case conferences at 5:00 and 6:00 p.m. on Fridays, however.

Long, long ago Socrates said, "Four things belong to a judge: to hear courteously, to answer wisely, to consider soberly and to decide impartially." All four of these Judge Miner possesses. I would add to these a fifth: to have a sense of humor, and Judge Miner also possesses that.

Just last week at the Second Circuit conference in Hershey, Pennsylvania, he was designated to speak for the new district judges and the new circuit judge. He said, and I quote, "I would like to say that I approach my new responsibilities on the Second Circuit -- "I was taking notes" -- with deep humility, great reverence and awe, but I won't say it because it wouldn't be true." We know that it is true, and for all of his past accomplishments and for all of his future accomplishments, we of the New York State Bar Association applaud and honor him today.

HON. JAMES L. OAKES: Thank you, Mr. Vigdor.
Our next speaker will be a former colleague of Judge Miner's, Justice Leonard Weiss, New York State Supreme Court, Appellate Division, Third Department.

Justice Weiss.

HON. LEONARD A. WEISS: If it please the Court, I should like to acknowledge the presence of so many dignitaries here, but I'm far too jealous of the brief few moments allotted me so that I greet you all as the dear friends and family of Roger Miner.

As I sat at my desk assembling the thoughts about Roger Miner that I wanted to share with you today, my memories instinctively turned to the early years of the judicial transfer program. You will recall that starting in 1979, supreme court justices were sent downstate in a massive transfer program to help alleviate case backlogs.

Now, Roger and I had known each other for years, but it was during those months of transfer duty in New York City that we became fast friends. Far from our families and homes, with neither an office to work in nor a book to refer to nor staff to assist us, we traveled each day from the hotel in Manhattan over to Brooklyn to do the bidding of our chief judge. There on the ground floor of a converted old building on Willoughby Street, we held court in tiny, dirty, dank cubbyholes purporting
to be courtrooms, lacking even the most basic ingredients such as drinking water or paper supplies for a bathroom.

At noon each day, we paused for lunch, usually at the counter of a fast-food stand, exchanged our experiences of the morning and speculated where we would eat that night. Except for the night that Mayor Koch felt sorry for us and invited us to eat at Gracie Mansion, it was a challenge to stretch the $25 daily allowance to cover three meals.

It was in that veritable cauldron of adversity that close bonds of friendship were forged between us. It was then and there that each of us vowed to the other that we would work to find advancement in our careers and that that advancement would lead Judge Miner to the federal bench and me to the Appellate Division of Supreme Court. I must say, however, that when I read last week in the newspaper that Judge Miner had an individual calendar of 868 cases, I speculated whether his advancement had really been for the better, but we all know of his splendid efforts in meeting the challenge of the overwhelming caseload.

It is his reward that has brought us together this day. The supreme court justices in this judicial district from whose ranks you did ascend all take pride in your achievements, Judge, and, Judge Oakes,
among the many whose names were impossible for you to mention are several of Roger's colleagues from the Third Judicial District who are here today to share in this delight.

In September of each year, many events traditionally occur. Vacations are over, schools reopen, baseball pennant races tighten and the football season begins, and it's in September that the news media begins to speculate and project which college star of the year will win the Heisman Trophy, emblematic of the single most outstanding hero of the football year. If a Heisman Trophy were to be awarded to the outstanding jurist, the winner this year would be a runaway. Roger J. Miner is everyone's selection.

Senator D'Amato, you're to be congratulated on nominating Judge Miner to the President. Judge Oakes, you and your Court are indeed fortunate to gain the addition of this man of unusual talent and experience, and to you, Jackie Miner, congratulations and plaudits are properly due upon your performance as a wife, a companion and a mentor. Your faith and confidence and support of Roger Miner has been superb.

September is always special to me for another reason. Tomorrow will be September 15, 1985, and that corresponds to the last day of the year 5745 of the
Hebrew calendar. Monday will not only be September 16; it will also be Rosh Hashanah, commonly called the Jewish New Year. The last day of the year is usually a time given to reconsider the past and to contemplate the future. The past can never be undone; it can only be understood and forgiven, but the future awaits each one of us with promise and with hope, and we stand at the gate of a year marking the transition between yesterday and tomorrow. Isn't it a marvelous coincidence that Monday will not only be the first day of a new year, but, in addition, it will be the first day in the career of Roger J. Miner as a member of the Second Circuit Court of Appeals.

As you cross the gateway of your new career, Roger, we know that you pass that threshold armed with knowledge, understanding, patience and dedication, all of the tools required for the success of a jurist, and we have all the confidence that the brilliance that you've already exhibited will continue in the years to come.

With your indulgence, I'd like to close with a brief thought. Over 2500 years ago, a philosopher named Plato said that what is honored in a country is what is cultivated there, and many would say that in this country, we perhaps have lost perspective of real values and of things that count. It's perhaps understandable
when you pause and realize that a comedian who tells jokes on television can earn almost a million dollars a week, while a brain surgeon who performs an eight-hour operation is paid but $2500. Young athletes sign professional contracts for millions of dollars before they even complete college, while most of their professors in the same colleges earn less than $50,000 a year. A rock and roll singer can earn 20 million dollars for one individual single recording, while the man who wrote our National Anthem didn't even get one penny for that song.

What is honored in a country is what is cultivated there, and the question might be asked: Are we content with whom we honor in this country? I submit to you that today those of us gathered together in this courtroom can answer that question affirmatively; yes, we are proud to honor Judge Roger J. Miner. In unison, we express our prayers that his years be many, filled with the blessings of the Almighty; that he may continue to walk and to work among us and for us all. Thank you.

HON. JAMES L. OAKES: Thank you, Justice Weiss.

The next speaker will be my old friend and probably of everybody here, Honorable James T. Foley, now Senior Judge, former Chief District Judge of the Northern District of New York. Jim.
HON. JAMES T. FOLEY: Presiding Judge

Oakes, my brothers Chief Judge Munson, Judge Neal McCurn, distinguished guests and speakers, Mayor Thomas Whalen, my fellow judges, state, federal, Mrs. Jacqueline Miner, Abram Miner, who will be a proud man today to swear his son into a new office, and the Miner family and ladies and gentlemen, you know, this morning, I began to feel, well, maybe I should write something out because I realized the importance of this occasion. So I've written it out on yellow sheets and, as Judge Munson just commented, probably I'm going to be unable to read it. So you'll be spared a lot of the statements that I've written out. Also, of course, the previous speakers, batting fifth in this line-up, have said a lot of the things that I intended to say.

But as you may imagine, being appointed by President Harry Truman in 1949, I've been on this bench very many times. I've also presided at ceremonies as a district judge, because I was the only district judge in Albany, and also as chief judge for 17 years. We had many memorable, impressive ceremonies in this courtroom, and I was always very happy to say that they would continue to be memorable. But today, September 14th, 1985, with this tremendous assemblage of people, dignitaries, public officials, national officers, this will be most
memorable and probably be the one that will stand out in our minds for many years to come.

The reason is, of course, that one of our own, Judge Roger Miner, has been appointed by President Ronald Reagan to the prestigious United States Court of Appeals for the Second Circuit. I'm sure, from my knowledge of him, my observations of him for four years, that he is exceptionally well-qualified to be a circuit judge.

Now, today we have, I think, a mixture of sadness and a mixture of happiness. Sadness because an able district judge is going to leave our Court and happiness because he is going to the Circuit Court bench to which he aspired and upon which, I'm sure, he will be heard often from often as an outstanding judge.

Now, as a federal judge, I was often invited to the state courts to participate in ceremonies there. We'd honor a new judge coming in or had a memorial service for departed judges, and it always sticks in my mind that after those services, I'd meet my lifelong friend, A. Franklin Mahoney, Presiding Judge of the Appellate Division, Third Department, and he'd always needle me by saying, "You seem to speak more about yourself than you do about the guests we honor or the judge whose memory we memorialize." My response always was, "I don't see anything wrong with that because they might forget to mention
me." So if I speak a little bit about myself, please forgive me.

The Court of Appeals, Second Circuit, of course, had one of the most eminent chief judges in the history of the courts and particularly the history of the United States Court of Appeals, Second Circuit, and that judge was Judge Learned Hand. Books have been written about him. He's been talked about often as a judge that belonged on the United States Supreme Court. Learned Hand was born, raised and practiced law in the City of Albany for five years with the firm of Hunt & Parker.

Now, when I was a new judge in 1951, I first went to Learned Hand when I went down to the Southern District to help out as a trial judge in the United States Courthouse, Foley Square. When I first met him, Judge Hand asked me -- I met him in his chambers -- how I was getting along as a district judge. I reminded him that I did not get off to a very good start because he had reversed me on my first appeal in the case involving the dissolution of Niagara Hudson and the consolidation into the present company we have, Niagara Mohawk.

Well, when I told him that, he laughed heartily and he said, "Don't be bothered by reversals." It impressed me that he had that state of mind, because I know that most judges, although they deny it, are bothered...
by reversals. He then told me, "Well, Foley -- " he 
always called me Foley and there was always warmth in his 
calling me Foley " -- I get reversed, of course, by the 
Supreme Court and I take it out by pounding that table 
over there and calling them dumb SOBs." So I guess that's 
what the district judges do often when the Circuit Court 
reverses them.

But Chief Judge Charles Clark sat here at 
this bench. We had statutory courts. It's been limited 
now. On this bench, three-judge courts have sat with 
Judge Harry B. Chase of the Learned Hand Court. Chief 
Judge Irving Kaufman has sat here; Chief Judge Feinberg 
has sat here four or five times; Thurgood Marshall was 
here. I sat with him with Judge Brennan. So the Court 
has been prominent in having judges of stature sit on 
the bench. Chief Judge Clark -- and he was the former 
Dean of Yale -- used to always like to say, "You know, 
the judges, the district judges, get upset with reversals, 
but, you know, if we affirmed all their decisions, some 
legislators may think that the Circuit Court is unnecessary 
and we can give it up."

Now to talk about our guest of honor. I 
met Roger Miner about five years ago over in Basil's 
Restaurant. He was then with several of the supreme court 
judges whom I've always liked and been with often, and I
knew when I first met him that he was a personable, decent man and that he had a warmth about him that could be seen, detected very easily.

When he came in this District Court, he set up his own procedures and did things, of course, with scheduling orders that had never been done before. But he moved the calendars, and, of course, a lot of the lawyers would gripe. They'd come in and see me and I'd say, "Well, that's the way it has to be done. The caseload here is staggering and it has to be kept pace properly or everything is going to happen that's wrong."

But Judge Miner, of course, is as hard working a judge as I've ever seen. He's brilliant and he's a scholar. With the full days in court and the night work he did, I'm sure that he found time always to speak at legal seminars and be accorded the honor, of course, of writing the history of this Northern District of New York. His helpmate in that writing, of course, was Mrs. Jacqueline Miner, and she has her Master's Degree in History, and it shows itself in that history. I would suggest that all of you -- I think it will be published in the Federal Rules Decision soon -- should read it.

Judge Miner is an able judge. He's going to be a credit to the Court of Appeals, Second Circuit, and we're going to miss him here very much. But as he
said in his historical article, this District Court, started in 1789, will endure. We have two able, active judges here, Chief Judge Munson, Judge McCurn. We have a well-organized Court and good personnel. Things will carry on. All we need is the judicial manpower, and I know, from speaking to Senator D'Amato today, he's going to help us out. So I can also tell you, as far as Senator D'Amato is concerned, he should be complimented for recommending Roger Miner to the President of the United States for appointment as a Circuit Judge.

Judge Miner, with his helpmate, Jackie Miner, with his fine father, able lawyer himself, and his brother, Lance, will be a happy man in the work that he's now going to undertake, writing opinions, because he's good at it. They're clear, they're concise, sound, balanced, and he has the sense of humor that I enjoy every day I have lunch with him.

So I say to Judge -- Circuit Judge he will be shortly -- Roger J. Miner, good luck; good health. O'Albany salutes you. Thank you very much.

HON. JAMES L. OAKES: Thank you very much, Jim.

Our next speaker will be Honorable Hamilton Fish, Jr., United States House of Representatives, Committee on the Judiciary.
HON. HAMILTON FISH, JR.: May it please
the Court, distinguished guests and family and friends
of Judge Miner, ladies and gentlemen, it is a distinct
honor and a personal pleasure to be with you today to
participate in the investiture of Roger J. Miner to the
United States Court of Appeals for the Second Circuit.
As one whose Congressional responsibilities and, yes,
opportunities include furthering the quality of justice,
I am humbled today and yet very satisfied before so much
judicial talent that is assembled with us.

Judge Roger Miner and his lovely wife,
Jackie, have been friends of mine for over 20 years, and
I certainly have very happy memories of those early days
in Columbia and Greene County. My respect for Roger stems
not only from his obvious professional qualifications
and abilities, but also is based on his unquestioned
personal integrity. Consequently, when an opening occurred
on the Second Circuit Court of Appeals, I strongly urged
the President and the Attorney General to favorably
consider his nomination. When this nomination was pending
before the Senate Judiciary Committee, I joined my
distinguished Congressional colleagues, Senator Alfonse
D'Amato and Congressman Gerry Solomon, in urging quick
approval.

Judge Miner's career is one of remarkably
balanced and thorough legal experience and, although previously mentioned today, it's worth repeating, he has been a practicing attorney and an effective prosecutor for Columbia County. He has been a professor of law and served in the Judge Advocate General's Corps in the United States Army and, of course, as we know, he has served with distinction as both a New York State Supreme Court Justice and as a United States District Court Judge for this, the Northern District of New York.

Roger Miner combines a practical, realistic, working knowledge of the law with those distinctive qualities of fairness, industry and patience so necessary in a superior judge. These qualities and qualifications resulted, as we heard earlier, in the impartial American Bar Association rating of Roger as well-qualified for the position he's about to undertake.

While perhaps not all cases are of equal importance, Judge Miner has a reputation as being able to treat each litigant as if their case was the most important pending before him. He is independent but he is not insensitive.

Nearly 200 years ago, the framers of our Constitution wisely decided to establish the federal judiciary as a separate, third, co-equal branch of our Federal Government, and those wise men recognized that
judges could decide cases fairly and effectively in accordance with law only if they were free from undue influence and partisan political pressures. Mr. Justice Sutherland recognized that only through this essential independence can judges remain true to their pledge. This freedom from outside pressure allows a judge to make the necessary tough calls as well as the easy ones. Mr. Justice Sutherland went on to observe, "If the provisions of the Constitution are not upheld when they pinch as well as when they comfort, they will be abandoned."

By themselves, of course, our Constitution and laws do not guarantee liberty, tranquility, justice, happiness or prosperity. The judicial branch of our Federal Government is the final protector of these values, and we need individuals of the highest standards to exercise this pivotal role in our system.

Judge Roger Miner lives up to this important charge. I have every confidence that his future contributions as a judge in this Circuit will equal and surpass his already distinguished contributions to the American legal system, and my sincerest congratulations to you, Roger and Jackie and your sons, every good wish to you as you undertake this new challenge, and I greatly appreciate your inviting me to be with you today.

HON. JAMES L. OAKES: Thank you, Congressman
Fish.

We will also hear from the Honorable Gerald B. Solomon of the United States House of Representatives, Twenty-Fourth Congressional District. We know where that is.

HON. GERALD B. SOLOMON: If it please the Court, ladies and gentlemen, justices all and Roger Miner my dear friend; Jackie, your family, I was indeed honored to be asked to say a few words today, as I am always honored whenever I have the privilege to play some small part in an occasion like this, and this event certainly qualifies as one marking, as it does, both a great personal achievement and the everlasting glory of our Nation's system of laws.

I have always been proud to count Judge Miner among my constituents, among my personal advisors and among my friends, and it was also with some measure of pride that I had the opportunity not so long ago to testify, as did my colleagues, Ham Fish and Alfonse D'Amato, before the Judiciary Committee of the United States when they were confirming Judge Miner before the Honorable Strom Thurmond. At that time, as I told the members of that distinguished panel, I was reminded somewhat of the words of another remarkable American, the late Senator Sam Ervin, one of the greatest and most
noted defenders of our Constitution. Senator Ervin also referred to himself as an old-fashioned country lawyer in a way that showed how proud he really was of his roots in rural North Carolina, and in the same way Judge Miner throughout his career has remained true to his roots in Columbia County, he has also remained true to his community, to his beliefs and to his family and the highest ideals of justice throughout his years as a District Attorney and a State Supreme Court Judge and now a Federal Judge.

One local newspaper, with justifiable pride, described Judge Miner's career as meteoric. Among the factors contributing to his rise to the bench of the second highest court of the land are his sharp intellect, his studious commitment and certainly his dedication. But I think, most of all, Judge Miner has had the benefit of three great sources of inspiration that have fueled his drive to what I call excellence.

There was the inspiration of his father, an immigrant who arrived penniless on the streets of New York and who worked his way through law school, setting an example for all of us in this room, indeed, all Americans, to follow. There was the inspiration of his family, especially his wife, Jackie, who has stood by his side and who has herself set the highest standards of public office and there is, lastly, the inspiration of his Nation,
the United States of America, and its system of laws, not men, which rewards excellence as much as it honors freedom and justice.

Some would say that a career like that of Judge Miner's could happen only in America, and I can only add that it takes an American like Judge Miner to build such a career, and, Roger, I know you feel it is a great honor to have been selected by President Reagan to serve in this prestigious capacity, and it most certainly is, but, Roger, we, your friends and neighbors that are gathered here today, including those that could not be here, we really have the real honor of having a man we so deeply admire and respect appointed to this most prestigious position. You make us all very, very proud to be Americans.

Justice Oakes, you mentioned Judge Miner may have found a final permanent job here in this Second Court, but let me tell you, as someone quite close to the President of the United States and a man called Meese, this may not be the final job. For you people who aspire to move up to the Second Court someday, you know, in that Court that Justice Oakes said is infallible only because it's final, could be an opening there, too, and I'd like to be involved in that someday. Thank you.

HON. JAMES L. OAKES: Thank you, Congressman
Our last, but by no means least, speaker is the Honorable Alfonse D'Amato, United States Senator from the State of New York.

HON. ALFONSE M. D'AMATO: May it please the Court, I'm deeply privileged and honored to be here with you, distinguished judiciary, so many good friends that I see. What a magnificent turnout on a beautiful Saturday. It is a tribute to the Judge, the fact people think so much of him, of his work and the tribute that has been accorded by this elevation to probably the Nation's second-most prestigious Court, the Second Circuit Court of Appeals. It's also a tribute to the fact that no one wants Jackie Miner to be annoyed.

I was struck by some of the comments with respect to the Judge's brilliance, his humor, his dedication, his wit, all of those things that are so important in the selection process. I was struck by the fact as I entered to see so many of my good colleagues in the Congress, Congressman Fish, who has served on the Judiciary Committee and is a Ranking Member of that Committee of the entire Nation; my good friend Congressman Solomon, myself. I wanted you to know you should listen to our distinguished judges, and I do. Judge Foley, Harry picked you; he knew what he was doing.
I want to leave you with a few thoughts, Roger, that the Judge reminded me of. Remember, they all love you now, all your colleagues. They think of you as erudite, one of them, but remember what Judge Foley said, when you reverse your friends and former associates, what they'll be thinking about that dumb you-know-what.

I can understand Ham Fish and myself, Gerry Solomon and others who are here, but, Jackie Miner, I want you to tell me how it is you were able to get Mayor Whalen here; our District Attorney, Sol Greenberg here; Sheriff Infante here and, to top it off, Counsel to the Governor, Mr. Crotty here. Now, that is, indeed, quite a tribute. It really is a tribute to not only Jackie but to the deep respect and affection that we have and the fact that we're so proud that one of our own, the son of an immigrant, who is here on this magnificent day to help install his son into this position of trust and of confidence, the fact that only here in this magnificent land can we see a young man grow, flourish in the community of Hudson to assume this responsible position, who will be sitting along with Judge Oakes and his colleagues and, yes, who may some day even ascend to the ultimate in terms of our judiciary.

So we join with you in celebration and in tribute. Congratulations and many years of successful
service and good health.

HON. JAMES L. OAKES: Thank you, Senator.

The Court now recognizes Steven Flanders, Circuit Executive of the Second Circuit Court of Appeals who is backed up by our Clerk, Elaine Goldsmith, for the reading of the Presidential Commission. Steve.

HON. STEVEN FLANDERS: "Ronald Reagan, President of the United States of America. To all who shall see these presents, greeting: Know ye; that reposing special trust and confidence in the wisdom, uprightness and learning of Roger J. Miner of New York, I have nominated, and by and with the advice and consent of the Senate, do appoint him United States Circuit Judge for the Second Circuit and do authorize and empower him to execute and fulfil the duties of that Office according to the Constitution and laws of the said United States, and to have and to hold the said Office with all the powers, privileges and emoluments to the same of right appertaining unto him, the said Roger J. Miner, during his good behavior.

"In testimony whereof, I have caused these letters to be made patent and the seal of the Department of Justice to be hereunto affixed. Done at the City of Washington this twenty-second day of July, in the year of our Lord one thousand nine hundred eighty-five, and
of the Independence of the United States of America, the
two hundred tenth."

The Commission is signed by Ronald Reagan,
President, and Edwin Meese, III, Attorney General.

HON. JAMES L. OAKES: Thank you, Steve.

The Oath of Office to Judge Miner will
now be administered by Mr. Abram Miner, and after taking
the Oath and being robed, Judge Miner will take his seat
for the first time on the Court of Appeals bench.

I may say if at that time the audience
wishes to break into applause, nobody will be held in
contempt.

MR. ABRAM MINER: May it please this
honorable Court, may I be excused for a moment as to
admonish my youngest grandson here to keep quiet while
the Oath is being administered.

Please repeat after me the following:
"I, Roger J. Miner, do solemnly swear...

HON. ROGER J. MINER: I, Roger J. Miner,
do solemnly swear...

MR. ABRAM MINER: "That I will administer
justice without respect to persons...

HON. ROGER J. MINER: That I will administer
justice without respect to persons...

MR. ABRAM MINER: "And do equal right to
the poor and to the rich...

HON. ROGER J. MINER: And do equal right
to the poor and to the rich...

MR. ABRAM MINER: "And that I will faith-
fully and impartially discharge and perform...

HON. ROGER J. MINER: And that I will
faithfully and impartially discharge and perform...

MR. ABRAM MINER: "All the duties incumbent
upon me as a United States Circuit Judge...

HON. ROGER J. MINER: All the duties
incumbent upon me as a United States Circuit Judge...

MR. ABRAM MINER: "According to the best
of my abilities and understanding...

HON. ROGER J. MINER: According to the
best of my abilities and understanding...

MR. ABRAM MINER: "Agreeably to the
Constitution and the Laws of the United States...

HON. ROGER J. MINER: Agreeably to the
Constitution and Laws of the United States...

MR. ABRAM MINER: "And that I will support
and defend the Constitution of the United States...

HON. ROGER J. MINER: And that I will
support and defend the Constitution of the United States...

MR. ABRAM MINER: "Against all enemies,
foreign and domestic...
HON. ROGER J. MINER: Against all enemies, foreign and domestic...

MR. ABRAM MINER: "That I will bear true faith and allegiance of the same...

HON. ROGER J. MINER: That I will bear true faith and allegiance to the same...

MR. ABRAM MINER: "That I take this obligation freely...

HON. ROGER J. MINER: That I take this obligation freely...

MR. ABRAM MINER: "Without any mental reservation or purpose of evasion...

HON. ROGER J. MINER: Without any mental reservation or purpose of evasion...

MR. ABRAM MINER: "And that I will well and faithfully discharge the duties of the Office on which I am about to enter...

HON. ROGER J. MINER: And that I will well and faithfully discharge the duties of the Office upon which I am about to enter...

MR. ABRAM MINER: "So help me God."

HON. ROGER J. MINER: So help me God.

(Applause.)

HON. JAMES L. OAKES: I am happy and proud to call upon my new colleague, Judge Roger J. Miner of
the Second Circuit Court of Appeals.

HON. ROGER J. MINER: Judge Oakes and colleagues on the bench, fellow judges in the audience, federal and state, Senator D'Amato, Congressmen Solomon and Fish, Mayor Whalen, brothers and sisters at the bar, my family and friends, it is a great honor for me to occupy a seat on this distinguished Court. My wife, Jackie, shares this honor with me, of course. She has made many sacrifices for me and it's because of her that I am here. She's a woman of formidable talents, having pursued several successful careers. Although I am constrained to avert my eyes from such things, I am given to understand that her political talents are especially formidable. In any event, I can say no less of her than the man who appointed me to this position said of his wife: "She's my everything."

We are very grateful to all of you for taking the time to attend this ceremony today. Many of you have traveled long distances to be with us. Our four sons also covered quite a bit of ground to be here, Larry from his job in Lake Elsinore, California; Ronald from the Florida Institute of Technology at Melbourne and Ralph and Mark from Michigan State University at East Lansing. We are very proud of all of them, and it's expensive, too.
We are especially grateful to our speakers whose kind words and wise advice are much appreciated: to Howard Munson, the great Chief Judge of the Northern District, a great friend and a fine companion. It was a pleasure to serve under his leadership; to Ralph Lancaster of Maine, a lawyer of such outstanding reputation that he was called upon to represent the United States Government before the International Court of Justice; Justin Vigdor, the distinguished President of the New York State Bar Association who came down from Rochester to be with us today; Len Weiss, with whom I did share the chambers in Brooklyn, and that was during the subway strike some years ago. Luckily, he had a car and the whole mess was somewhat ameliorated by that fine dinner with Mayor Koch at Gracie Mansion. Len spoke at that dinner, too, and he's always known as a great speaker, and he was able to hold his remarks down today more than he usually does. The Mayor wanted to know when he was going to get finished; Jim Foley, my mentor in the District Court who taught me more about the federal judiciary and the human condition than I ever learned from any book. He also taught me to stay away from Saratoga in August; Ham Fish whose friendship Jackie and I have valued for more than 20 years, and we well remember his second campaign for Congress. I was practicing law in Hudson at the time and another
candidate interested in the Republican nomination came around seeking our support, and we told him that we felt Ham was the man and we never regretted the choice. The other candidate was G. Gordon Liddy; Gerry Solomon, a long-time friend and my own Congressman. I'll always remember the great stem-winder of a speech Gerry made before the Senate Judiciary Committee in support of my nomination to this bench; and, of course, to Senator Al D'Amato who has spoken in my behalf on many occasions and in many places. I am grateful, indeed, for all his encouragement, support and confidence.

In recognizing Al D'Amato at my confirmation hearing, Senator Thurmond, the Chairman of the Judiciary Committee, remarked that Al is held in high esteem by his colleagues in the Senate. It seems to me that there are many New Yorkers who hold him in high esteem, indeed, and I am privileged to be one of them.

I am grateful to Jim Oakes, my new colleague, for coming down from the Green Mountain State of Vermont to convene this Court in Albany for the very first time in history. I have said on many occasions that I am a great admirer of his and very much look forward to serving with him on the Circuit Court. Thanks also to my former comrade-in-arms in the Northern District, Neal McCurn, who has graciously joined us here on the bench.
I take this occasion to extend my heartfelt thanks to the President who not only appointed me to this Court but who was kind enough to call and chat about my nomination; to Attorney General Meese and Presidential Counsel Fielding; to Senator Thurmond and his right-hand man, Duke Short, for expediting the process of advice and consent, and to Congressmen Jack Kemp, George Wortley, Ben Gilman, Sam Stratton and to Senator Pat Moynihan.

Thanks are also due to a number of old and new friends in Washington for all their help: Art Jutton, Nick Hayes, Dennis Howe, Helen Cameron, Commissioner Dennis Patrick and Ambassadors Jean Gerard and Faith Whittlesey. Special thanks to John O'Mara and Bill Powers for their steadfastness; to Dean Jim Simon and the faculty at New York Law School for their assistance in many things, and, Jim, I am the second Circuit appointee from the school; John M. Harlan was the first, and you know what happened to him; to my former professor at New York Law School, Roy Cohn, who taught and still teaches loyalty, commitment and kindness as well as the law. It's a special privilege to call him friend; to Roy's partner, Dr. Tom Bolan, whose life exemplifies the best qualities of charity and justice; to my chambers staff; to Joe Scully; to the GSA, the Marshals, Lance Wheeler, my family; to all who helped with the arrangements; to all of you, thank
you, thank you.

Oh, one final thank you. Four years ago, I publicly thanked Dr. Stanley Bardwell of Hudson for certifying to the Government that I was mentally competent to serve as a federal judge. He has made the same certification this year, and I thank him again. I still am afraid to ask what standard he uses.

As I take this seat, I am mindful of the important responsibilities I am assuming. I approach those responsibilities with a firm resolve to bring to each case an open mind and a sense of fairness. As a lawyer and trial judge, I have long been aware of the overriding concerns of litigants for impartiality and objectivity in the decisional process. Those concerns will continue to be of paramount importance to me as an appellate judge.

I bring to this Court a fierce desire to do justice in accordance with the oath I have just taken and to use all the diligence, all the skills and all the effort I can bring to bear in carrying out my judicial duties. I also bring an awareness of the constitutional and pragmatic limitations on the role of the federal judiciary in our society.

Our Constitution establishes a separation of powers among the branches of the Federal Government,
as well as a deliberately measured allocation of authority between the states and the Federal Government. We judges are constrained by our oaths to respect the restraints on judicial power envisioned by this system. I believe that compliance with the constitutional mandate requires strict adherence to the interpretive function of the courts and a healthy respect for the American political process.

As to pragmatic constraints, Judge Alfred Conkling Coxe of Utica, who served as a judge of the Northern District before his appointment as a circuit judge in 1902, said, "We have yet to learn that there are some inconveniences, annoyances and even faults which cannot be remedied by law." It seems to me that the lesson taught by Judge Coxe has not yet been learned and that it is still an all too popular misconception that every conflict must find a remedy in a court of law. This misconception has fostered an ever-expanding federal court jurisdiction, and now we face a massive judicial gridlock occasioned by the overburdening of the federal courts. It should be apparent that there are only so many things that courts can do.

My immigrant grandparents referred to this great nation as the Golden Land. They never ceased to be awed by the freedoms, the opportunities and the
individual liberties that were available to them in their adopted country. "Only in America" they would say. As naturalized citizens, they had special feelings of love, support and devotion for this country and they passed those feelings on to their children and grandchildren.

I wish that they could be here today to witness this ceremony and to say once again, "Only in America."

I conclude with some assurances. When I first became a judge ten years ago, my father told me never to forget that I was a lawyer. He has reminded me of that admonition frequently since that time. Whenever he gets an adverse decision from some judge, he reminds me of it. I assure him again that I shall never forget that I practiced law. Since I was appointed to the Circuit Court, Judge Foley has advised me on more than one occasion never to forget that I was a trial judge.

I think that his advice comes whenever any district judge is reversed by the Circuit Court. I assure him that I shall never forget that I was a trial judge.

To my new colleagues, I pledge my loyalty and esteem, as well as my respect for the traditions of the Court and the principle of collegiality. I reserve the right to dissent, however.

To all of you, I pledge to do whatever is necessary to merit your confidence, to be worthy of this
great Court and to assure justice for all, the brightest promise of this Golden Land. Thank you.

HON. JAMES L. OAKES: That was a very inspiring speech, fine remarks, Roger, and we welcome you.

A Prayer for Our Country recited by Rabbi Philip Schlenker will be followed by "America the Beautiful" sung by Mrs. Vera Rescigno, not by coincidence, an aunt of Jackie Miner's, and the ceremony will then conclude with the singing of "God Bless America" with us all participating, as we wish. Rabbi Schlenker.

RABBI PHILIP SCHLENKER: Let us pray.

Our God and God of our Fathers, we invoke thy blessing upon our country, on the Government of this Republic, the President of these United States and all who exercise just and rightful authority. Do thou instruct them out of thy law that they may administer all affairs of State and justice and equity; that peace and security, happiness and prosperity, right and freedom may forever abide among us. Unite all the inhabitants of our country, whatever their origin and creed, into a bond of true brotherhood, to banish hatred and bigotry and to safeguard the ideals and free institutions which are our country's glory. May this land under thy province be an influence for good throughout the world, uniting men in peace and helping to fulfill the vision of our prophets. Nation
shall not lift up sword against nation, neither shall men
learn war any more, for all men, both great and small,
shall know the Lord. Amen.

THE BAILIFF: Ladies and gentlemen, at the
conclusion of the ceremonies, please exit the courtroom
as directed by the United States Marshals. Also, the
Judge and Mrs. Miner invite you to enjoy refreshments
just outside and to visit with them in the Judge's chambers.

(Singing of "America the Beautiful" by
Mrs. Vera Rescigno and singing of "God Bless America" by
all.)

HON. JAMES L. OAKES: The Court now stands
adjourned.

(Whereupon, the proceedings in the above-
entitled matter were concluded.)