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Remarks of Honorable James L. Oakes

James L. Oakes

United States Court of Appeals for the Second Circuit

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Remarks of
HONORABLE JAMES L. OAKES
Acting Chief Judge
United States Court of Appeals for the Second Circuit
at the Induction of
HONORABLE ROGER J. MINER
as Circuit Judge
Albany, New York
September 14, 1985

The Court of Appeals for the Second Circuit convenes in extraordinary session today in the New York State capital for the happy purpose of inducting Roger J. Miner as the fifty-third 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 my colleagues, who join in sending him best wishes. It should be noted that present today here in Albany are the following judges [name circuit and district judges* present]. We are also honored by the presence of Justice Leonard H. Weiss of the Appellate Division of the New York State Supreme Court.

* Former Chief Judge of the Northern District of New York Jim Foley; Senior Judge Edmund Port; Chief Judge Howard G. Munson; Judge Neal McCurn, also of the Northern District of New York; Lee P. Gagliardi of the Southern District of New York (now of Vermont, but who will be assisting the Northern District here in Albany.)

We are also honored and pleased to be joined by the distinguished United States Senator from New York, Alphonse D'Amato, without whose advice and consent these proceedings could not have taken place, and two Congressmen, Gerald B. Solomon and Hamilton Fish, Jr., friends of the Miner family. The state and national bar associations are well represented here by Justin Vigdor, president of the New York State Bar Association, and Ralph I. Lancaster, Jr., of the American Bar Association's Standing Committee on the Federal Judiciary. We also welcome, of course, Judge Miner's effervescent wife, Jacqueline, and their sons Laurence, Mark, and [if present] Ronald and Ralph Carmichael, to our court family.

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 the Vermont border, so to speak -- has produced some of our most illustrious judges, including the now-legendary Chief Judge Learned Hand and his cousin Judge Augustus Hand, who came from Albany and Elizabethtown, respectively.

This induction is a significant one for the Northern District of New York, of which Judge Miner himself has boasted that it has 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 our northern colleagues other than the Hands have journeyed south to join the court of appeals well in the past. Judge William J. 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 Epoch 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 or the Southern District can rightly claim to be the "Mother Court" of the Second Circuit. In the interests of harmony in the circuit, and as a

Vermonters, 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 28, 1981, as District Court Judge for the Northern District. With respect to this most recent position, I would like to point out that he is continuing in a well-established tradition of promotion from within the Second Circuit; we former district court judges now constitute a solid majority on the Court of Appeals.

In the almost four years that Judge Miner has sat on the district court, my colleagues and I have had a number of opportunities to review Judge Miner's opinions. As you would expect,

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, 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 [see Brown v. Allen, 344 U.S.], 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 _____.