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## Testimonial Dinner: Hon. Warren E. Zittell, Columbia County Judge

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Roger J. Miner  
U.S. Circuit Judge

Testimonial Dinner  
Hon. Warren E. Zittell, Columbia County Judge  
December 7, 1994  
Kozel's Restaurant, Ghent, NY

A man once said that Warren Zittell is the finest County Judge in the State of New York. And the man who said that is here tonight -- Warren Zittell! It is a signal honor for me to be on this dais tonight. People fought to be on this dais -- those who won are not here. But this evening you see before you an extraordinary human being, a man of learning, of compassion and great diligence. You see a man who has been an outstanding lawyer and a distinguished Judge, a man whose lovely and accomplished wife has assisted him in all his endeavors, a man who at all times has been fully qualified for higher judicial office. But enough about me. I am here to talk about the former Warren Zittell, a legend in his own mind.

Warren was born in Mount Vernon in Westchester County many years ago. I do not say how many years, except to note that his social security number is written in Roman numerals. When he was young, the Dead Sea was only sick. It is said that his mother had morning sickness after he was born. As a young lad, he made an indelible impression upon all who knew him. At the age of five, he ran away from home and nobody could describe what he looked like. He enlisted in the army in 1946 and served for two years before attending St. Lawrence University, from which he graduated in 1951. It was at St. Lawrence that Anne and Warren

met. It was there that they worked together on the 1948 campaign of Thomas E. Dewey, the Republican candidate for President. You all know what happened to Dewey. After college, Warren returned to the military service, this time serving for three years as a military police officer in Berlin. Can you believe that this specimen once was a trim Army Lieutenant? He recently willed his body to science, but science is contesting the will. He once was asked to pose for a centerfold -- in Popular Mechanics magazine. At this stage of his life, he knows where it's at but has forgotten why it's there. Actually, the years have been kind to him. It is the months in between that have knocked him to pieces.

After his second military tour, Warren and Anne were married. Warren enrolled in the Columbia Law School and met his expenses through a variety of scholarships and part-time employments. It is said that he was such an outstanding scholar in law school that he could examine any contract and tell at once whether it was oral or written. Incidentally, Anne got her graduate degree in nursing at Columbia University, which led her to a successful career as a teacher, practitioner and administrator in the nursing field.

After graduating from law school in 1956, Warren found his way to Columbia County and to the venerable Hillsdale law firm of Bell & Daley. He took up residence in Copake, where he became a valued citizen of the community. In addition to being a partner in the law firm (which Andy Baldwin later joined), he was Town Attorney for the Towns of Hillsdale and Copake and Deputy Supervisor of the Town of Copake. Copake had an active night

life in those days but she moved out of town. Warren kept horses in Copake, and he continued to keep horses after he moved to North Chatham in 1969. When he came to the Courthouse, you could often tell that he had been with the horses. But it was quite a sight to see Warren, Anne and their daughter, Anne Adair, zipping through the snow in a horse-drawn sleigh.

In 1964, after Dave Hendler resigned as District Attorney, Governor Rockefeller appointed Warren to the position. He had served as Assistant District Attorney under Dave since 1963. Soon after Warren took office, he appointed me as his Assistant. I remember it well. I went over to the D.A.'s office and Warren was signing my letter of appointment. Did you ever see Warren sign his name? It was a week before he started on the "Z." This man has given a whole new meaning to the word "deliberate." At any rate, Warren and I went about the business of fighting crime and eliminating vice in Columbia County in 1964. There were just three of us in the office -- Jane Balcerzewski, who was our secretary, office manager and institutional memory, Warren and me. When I look at the D.A. operation today, I say to myself: "Is there that much more crime in Columbia County?" What a bunch of empire builders!

Besides his duties as District Attorney and his private law practice, Warren began gearing up, with Anne's help, for the election campaign of 1964. His appointment was only good until the end of the year, and he had to run in November. The head of Warren's ticket was a fellow named Barry Goldwater. Goldwater

lost, Lyndon Johnson won; Warren lost and John Connor won, the first Democrat in one hundred years to be elected District Attorney in this County. I thought then that a great career in public service had come to an end -- mine!

A couple of years ago, I had to tell the story of 1964 to the Attorney General of the United States. I was being interviewed during my third and final campaign for the High Court on the Potomac. The Attorney General was Dick Thornburgh -- a real winner. He said: "How come you held a job for only six months in 1964?" So I told him about Warren Zittell. It turned out that Thornburgh was Attorney General only a little longer than Zittell was D.A.

After the 1964 election disaster, Myrtie Tinklepaugh sent Warren and me to see Freddy Young, the State Republican Chairman. I remember our visit to his suite at the Ten Eyck Hotel in Albany like it was yesterday. We were admitted by our old friend, the redoubtable Jack VanderVort, who was then serving as Executive Assistant to the Chairman. The rooms were littered with bottles, evidencing a great party the night before. The Chairman's head obviously was hurting as he sat down with us. Young was a great favorite of Nelson Rockefeller and later was appointed Chief Judge of the Court of Claims, a job you could probably do with a hangover.

Anyway, Freddy had a list of jobs available, and he said to me: "You can be Counsel for the State Police." To Warren, he said: "You can be Counsel to the Mental Hygiene Facilities

Improvement Fund." After talking it over with my father, I decided that I did not want to leave private practice and therefore declined the offer given to me. Warren accepted his offer and began a distinguished career in State service that was to run from 1965 to 1974. He was Counsel and later Deputy Executive Director at the NYS Facilities Development Corporation, the successor to the Fund.

I undertook a great deal of criminal defense work during the John Connor years. John was a great District Attorney. He could not stand to see anybody go to jail and frequently argued that a defendant should have a second, third, fourth or fifth chance. We all loved John as D.A. He of course pulled out after one term and I reluctantly ran against his Assistant, Tom Turley, a great fellow. Tom won his own election district in Kinderhook, but I hold no grudge against that district. I gave up that grudge last year.

In 1974, Warren made his triumphant return to Columbia County. Bill Christiana had resigned as County Judge, and there was a vacancy that needed to be filled. Warren heard the call of the people, who were assisted in their call by Anne, who by then was quite a political powerhouse in her own right. Warren was appointed to fill the vacancy by Malcolm Wilson, who served briefly as Governor following the resignation of Rockefeller. He was the last Republican Governor until now. Thus began Warren's judicial career.

Warren was elected to a ten-year term as County Judge in

1974, reelected in 1984, and has served us with distinction for all those years. I practiced before him for almost two years as District Attorney. I really enjoyed it. So did Debbie McLean, who as Court Reporter, has had to listen to him all the years since then. What a judicial career! It has been said that Warren was a great judge during his lifetime. He never knew the meaning of the word "rest." He never knew the meaning of a lot of other words, either. His remarks from the bench have been compared to Divine Providence because they passeth all understanding and they endureth forever. One lawyer on leaving his courtroom was heard to say, in praise of Warren: "When they made him, they threw away the shovel." Warren frequently used Elizabethan English when speaking in the courtroom: "Insofar as, inasmuch as, wherefore, etc." He always had his two feet planted firmly in the air. As the circus owner said when the human cannonball retired, we shall never again find a man of his caliber.

Warren often was assigned to sit in Westchester County, his native land. While there on one occasion, he was hearing a negligence case. The plaintiff testified: "Ever since I fell off the loading platform at the Ajax Trucking Company, I have been unable to have marital relations more than five times a week." Warren leaned over to the witness and said: "Tell me, where is that loading platform?" On another occasion, Warren sentenced a 70-year-old man to a 20-year term. When the man protested that he could not serve such a lengthy term due to his advanced age,

Warren said: "Do as much as you can." Warren once offered to assign counsel to a defendant. The defendant said: "I do not need counsel. God is my lawyer." Warren said: "You should have someone locally."

Some years ago, I asked Anne if Warren believed in life after death. She said: "He doesn't believe in life after supper." In a discussion about the death penalty, Warren said that he believed in the death penalty if it was not too severe. He always came down in the middle when deciding a case. In Smith v. Jones, he would come down on the side of versus. He was a Judge who has tried to avoid being judgmental. Warren is a man who is very literal, very precise in his language. A beggar once approached him in New York City and said: "Do you have any spare change?" Warren said "Yes" and walked away. The same beggar followed him down the street and said: "I haven't tasted food in a week." Warren responded: "Don't worry, it still tastes the same." It always was a pleasure to observe Warren's techniques on the bench, especially in Family Court. He once told a respondent: "I am giving your spouse \$50.00 a week for support." The respondent said: "Thank you, Your Honor, I will throw in a few dollars myself."

It is wonderful to see such a great outpouring of affection for you, Warren. Actually, all the people are here just to make sure that you really are retiring. But it is a great group that is present in this room tonight. Earlier in the evening, John Leaman said to me: "This is the greatest assembly of legal and



judicial talent since I had breakfast alone this morning." Our guest of honor, of course, keeps his talent in his wife's name.

Seriously, the people of Columbia County have been most fortunate to have this good and decent man as County Judge for more than two decades. He has brought his considerable abilities to bear on the difficult matters a trial judge is faced with every day. His was a hard job, and he did it very well. He strove mightily to do justice, but his firm belief was that parties to litigation should do their best to resolve their own differences. He frequently was frustrated by the failure of lawyers to heed the admonition of Abraham Lincoln, who told the bar to encourage people to settle disputes and to avoid the frictions engendered by litigation.

Warren brought to the job of judging an excellent legal mind and an active, astute, inquiring approach to the law. But to me, his outstanding qualities always have been his compassion and his love for his fellow man. There were, of course, a few men and women he didn't like very well, but he loved them all. And this love is what lifted Warren from the ranks of the very good judges to the ranks of the really great judges. Despite all the problems he faced as a Judge, he truly believed in the perfectibility of mankind. You can't help but love a guy who is that optimistic about the world.

By our presence here tonight, we express the love and affection that we all feel toward Warren. We honor him on the occasion of his retirement as Columbia County Judge and we wish him well in all his future endeavors. Anne and Warren, happy skiing!