

*Special Session of the
United States District Court for the
Southern District of New York*

*On the Occasion of
the 225th Anniversary of the First Session of a
United States Court*

*Held in New York, New York
On the First Tuesday of November, 1789
by
Honorable James Duane, District Judge*



225th Anniversary
1789-2014

NOVEMBER 4, 2014
4:00 P.M.
MOYNIHAN UNITED STATES COURTHOUSE
9TH FLOOR CEREMONIAL COURTROOM

Opening of Court

Ruby J. Krajick, Clerk of Court

Procession

New York Ancients Fife and Drum Corp.

Honorable Preet Bharara, United States Attorney

Honorable Eric Timberman, United States Marshal (Acting)

Maritime Law Association:

Patrick J. Bonner

Lizabeth L. Burrell

Raymond P. Hayden

Chester D. Hooper

Howard M. McCormack

Welcoming Remarks

Honorable Loretta A. Preska, Chief Judge

Remarks

Robert B. Fiske, Jr.

United States Attorney (1976-1980)

**Remarks on the Silver Oar and the
Admiralty History of the Court**

Honorable Charles S. Haight, Jr., District Judge

Remarks by the Co-Chairs of the 225th Anniversary

Honorable P. Kevin Castel, District Judge

Honorable Deborah A. Batts, District Judge

Adjournment of Court

Ruby J. Krajick, Clerk of Court

PRESENT:

HON. LORETTA A. PRESKA

Chief Judge, Presiding

HON. THOMAS P. GRIESA

HON. KEVIN THOMAS DUFFY

HON. CHARLES S. HAIGHT, JR.

HON. ROBERT W. SWEET

HON. JOHN F. KEENAN

HON. LOUIS L. STANTON

HON. MIRIAM GOLDMAN CEDARBAUM

HON. KIMBA M. WOOD

HON. DEBORAH A. BATTS

HON. LEWIS A. KAPLAN

HON. JOHN KOELTL

HON. DENISE COTE

HON. SHIRA A. SCHEINDLIN

HON. SIDNEY H. STEIN

HON. JED S. RAKOFF

HON. ALVIN K. HELLERSTEIN

HON. RICHARD M. BERMAN

HON. COLLEEN McMAHON

HON. WILLIAM H. PAULEY, III

HON. NAOMI REICE BUCHWALD

HON. VICTOR MARRERO

HON. GEORGE B. DANIELS
HON. LAURA TAYLOR SWAIN
HON. P. KEVIN CASTEL
HON. KENNETH M. KARAS
HON. PAUL A. CROTTY
HON. RICHARD J. SULLIVAN
HON. CATHY SEIBEL
HON. VINCENT L. BRICCETTI
HON. J. PAUL OETKEN
HON. PAUL A. ENGELMAYER
HON. ANDREW L. CARTER
HON. EDGARDO RAMOS
HON. RONNIE ABRAMS
HON. LORNA G. SCHOFIELD
HON. KATHERINE POLK FAILLA
HON. ANALISA TORRES
HON. NELSON STEPHEN ROMAN
HON. VERNON S. BRODERICK
HON. GREGORY HOWARD WOODS
HON. VALERIE CAPRONI

District Judges

THE CLERK OF COURT: All rise.

The Judges of the United States District Court for the Southern District of New York.

(The Judges assemble.)

THE CLERK OF COURT: Hear Ye, Hear Ye. All persons having business before the Special Session of the United States District Court for the Southern District of New York draw near, give your attention, and you shall be heard. The Honorable Chief Judge Loretta A. Preska presiding.

(Procession of the New York Ancients Fife and Drum Corps; the Honorable Preet Bharara, United States Attorney; the Honorable Eric Timberman, United States Marshal, Acting; and Patrick J. Bonner, Lizabeth L. Burrell, Raymond P. Hayden, and Chester D. Hooper of the Maritime Law Association.)

CHIEF JUDGE PRESKA: Please remain standing for our national anthem.

(National Anthem.)

CHIEF JUDGE PRESKA: Please be seated, ladies and gentlemen.

Madam Clerk: Please read the commission by the President of the United States appointing James Duane of New York a United States District Judge.

THE CLERK OF COURT: George Washington, 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, rightness, and learning of James Duane of New York, Esquire, I have nominated and by and with the advice and consent of the Senate do appoint him Judge of the District Court in and for New York District; and do authorize and empower him to execute and fulfill 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 James Duane, during his good behavior. In testimony whereof, I have caused these letters to be made patent and the seal of the United States to be hereunto affixed.

“Given under my hand, the twenty-sixth day of September in the Year of Our Lord one thousand seven hundred and eighty-nine. G. Washington.”

CHIEF JUDGE PRESKA: Today we are here to celebrate the 225th anniversary of the first sitting of the Southern District of New York. On November 3 of 1789 -- the first Tuesday of November, 225 years ago -- the United States District Court for the District of New York convened its first session at the Old Royal Exchange on Broadway, in Lower Manhattan. As all of you know, our first session came three months before the first sitting of the

United States Supreme Court, which took place on February 2 of 1790. Because the District of New York was the first to sit following the passage of the Judiciary Act of 1789, which established the 13 district courts along the outlines of the 13 original colonies, our Court has come to be known as the “Mother Court.”

I hasten to add that that first sitting in no way reflected the Court’s docket of today. Indeed, the news report of that first sitting read, in its entirety, “On Tuesday, the Federal Court for the District of New York opened in the Exchange. His Honor, Judge Duane, presiding. No business being before the Court, the same was immediately adjourned.”

Judge James Duane, a member of the Continental Congress, the first Mayor of the City of New York after the British evacuated, and our first District Judge, was notified of his nomination and appointment -- and granted his Commission -- by a letter from President George Washington. It does appear that the confirmation process was a little bit easier then. The letter read:

“United States, September 30, 1789.

“Sir:

“I have the pleasure to enclose to you a commission as Judge of the United States for the District of New York, to which office I have nominated and, by and with the advice and consent of the Senate, appointed you.

“In my nomination of persons to fill offices in the Judicial Department, I have been guided by the importance of the Object -- Considering it as of the first magnitude and as the Pillar on which our political fabric must rest, I have endeavored to bring into the high offices of its administration such characters as will give stability and dignity to our national Government -- and I persuade myself they will discover a true desire to promote the happiness of our country by a ready acceptance of their several appointments.

“The laws which have passed relative to your office accompany the commission.

“I am, Sir, with very great esteem, your most obedient servant,

“G. Washington.”

The 30 men admitted to the Bar of this Court during that first sitting included the Mayor of the City of New York, Richard Varick; two future judges of this Court, John Laurence and Robert Troup; a future judge of the District of New Jersey, Robert Morris; a future -- and the first -- Chief Judge of the Second Circuit, Egbert Benson; a future Vice President of United States, Aaron Burr; and a future Justice of the Supreme Court of the United States, Brockholst Livingston.

Madam Clerk, please read the roll of the 30 men who were admitted to the bar of this Court on the first Tuesday of November 1789.

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THE CLERK OF COURT: Richard Harrison, Richard Varick, John Cozine, John Laurence, Cornelius Bogert, Peter Ogilvie, Robert Troup, Balthazar DeHaert, George Bond, Robert Morris, Thomas Smith, Egbert Benson, Aaron Burr, Henry Brockholst Livingston, James M. Hughes, John H. Walkins, Peter Masterson, Thomas Cooper, Michael D. Henry, Flameu Ball, James DeHaert, Leonard Cutting, Joseph Ogden Hoffman, Thomas Smith Jr., Joseph Strong, James Thompson Jr., John Keese, Nathaniel Laurence, Absolom Blackly, Augustus Sackel.

CHIEF JUDGE PRESKA: Now, as then, the unparalleled quality of the New York Bar allows our Court to flourish, so it is only appropriate that a representative of that group be heard from today. As the late Honorable Judge Edward Weinfeld remarked, the New York Bar is truly “illustrious,” and it was its reputation that helped to attract additional litigation to our District and to grow the District beyond its original Admiralty roots. It is doubtful that our Court could have attained the stature or the caseload it maintains today without such illustrious attorneys.

At this time I call upon Robert B. Fiske Jr. of the bar of this Court to deliver brief remarks as a successor to those original 30 lawyers. Mr. Fiske, a former United States Attorney of this District, honored this Court by delivering remarks at our 200th anniversary.

Mr. Fiske.

MR. FISKE: Chief Judge Preska, Judges of the Southern District, friends of the Mother Court:

It is indeed an honor to have been asked to address you all on this extraordinary occasion. As Judge Preska indicated, 25 years ago, in 1989, I also had the honor of addressing this Court -- which at that time included just 11 of our current judges -- at the celebration of its 200th anniversary. In that speech, I focused on two themes that I saw as central to the “Mother Court” over the first 200 years: (1) its persistent change and growth, and (2) the breadth and diversity of its cases. It is these things that demonstrated the truth of Judge Thomas D. Thacher’s words from the 150th anniversary in 1939:

“I venture to say that no other district court in this country, or any other court in any other land, exercises a jurisdiction comparable in scope and importance with the jurisdiction exercised by this Court.”

Although much has changed in the last 25 years, these words of Judge Thacher are still the Court’s hallmark.

In my 1989 speech, I traced the development of this Court during its first 200 years. Judge Castel has advised me that everyone will be receiving a copy of that speech in materials to be distributed later. So, because time is limited, I would like to focus on a few areas of the last 25 years that I see as particularly noteworthy.

Specifically I would like to talk about the declining number of trials, the impact of technology, and the diversity of the bench. Then I would like to briefly turn to some of the substantive issues that the Court grapples with today, which were inconceivable in 1789 -- many of which were inconceivable in 1989.

Twenty-five years ago, in the fiscal year ending in September 1989, 5,487 cases were filed in the Southern District. In the period of June to June of that year, 705 trials were conducted. In contrast, in the fiscal year ending just now, September 2014, 12,590 cases were filed, and there were 229 trials. The percentage of cases that went to trial in 1989 was just under 13 percent. That percentage this year was under 2 percent. This general trend of a decline in trials in the Southern District mirrors what is happening throughout the federal court system. It is a subject for another day, but to many of us in the trial bar, this concept of the vanishing trial and, with it, the vanishing trial lawyer presents serious issues for the administration of justice and the stature and standing of the legal profession.

Twenty-five years ago I talked about how technological advances, such as computers and word processing, had eased the burden of the court. That was 1989. We didn't even have e-mail yet. In the last 25 years, we have seen the advent of major technological changes, advances such as the electronic filing system, which provides instant -- real time -- communications between litigants and the courts, as well as electronic court reporting, video conferencing, and numerous other advances which make the Clerk's office more efficient. When I tried a case in 1991, we were

still handing out individual copies of exhibits one by one to each of the jurors in the box. Today of course it's all on a screen instantaneously for all to see, with highlighting to emphasize important points. Done well, it obviously provides more effective communication with jurors and more effective advocacy.

Third, it is certainly worth reflecting on how the diversity of the Court has continued to change -- and improve -- over time. Until 1966, this Court was composed entirely of white men. That year, Judge Motley, an African-American female judge, was appointed to the Mother Court, and it has since grown into a far more representative and diverse body in terms of gender, race, and professional background. And the last 25 years have seen giant strides. In 1989, when I last spoke, the active judges of the court included 19 white men, three white women, and one African-American. Today, the acting judges of the Court include 11 white men, eight white women, five African-American men and women, and four other men and women of Puerto Rican, Dominican, and Filipino ancestry. In addition, there are now three openly gay judges -- something that did not exist in 1989. On another positive note, in 1989 I lamented the significant delays in filling vacancies that left the Southern District bench with only 22 of the 27 authorized judgeships. Today, the court has 28 authorized judgeships -- one new one in the last 25 years -- and all are filled.

Turning to substantive issues, as the world around us changes, new issues and new conflicts develop. These developing issues and conflicts in turn require the judgment, expertise, and wisdom of this Court.

Global tensions throughout the world have contributed to many new issues today that the Mother Court must deal with. Although the question of whether civil or military courts should handle terrorism cases has been a matter of debate, the Judges of Southern District have demonstrated that they have the experience, expertise, and capacity to try these cases.

In 1995, Judge Michael Mukasey presided over a nine-month trial in which ten defendants were convicted of seditious conspiracy and other offenses based on their plot to blow up the World Trade Center, United Nations headquarters, and various other locations in and around New York. The lead defendant, Omar Abdel Rahman, known as the “Blind Sheikh,” was sentenced to life in prison. In affirming the convictions, the Second Circuit said, in language very similar to that used later in affirming convictions in terrorism trials presided over by Judges Duffy and Sand, “The trial judge...presided with extraordinary skill and patience, assuring fairness to the prosecution and to each defendant and helpfulness to the jury. His was an outstanding achievement in the face of challenges far beyond those normally endured by a trial judge.”

A new part of the job of a Southern District judge is the personal sacrifices that must be made when dealing with terrorism cases. It is common for judges conducting these cases to be guarded by marshals -- something that, to my knowledge, had never occurred in the past.

Recently, the country's counterterrorism efforts have been met with contentious debate over the proper balance between national security and constitutional freedoms. Judge Pauley was asked to invalidate the statute authorizing the NSA's bulk collection of metadata as a violation of Fourth Amendment rights. He upheld the statute, on the basis that the information provided to a telecommunication provider cannot reasonably be expected to be private. This controversial issue raised much debate -- and a decision in another district going the other way, by one of my former assistant U.S. attorneys -- but as always, the views of the Southern District judges are central to the discussion.

Technological advancements unknown 25 years ago are constantly creating new legal issues for the Court to consider. How can we protect intellectual property without chilling innovation? How do we support the new wave of Internet providers while protecting our broadcasting industry? And how can we uphold our First Amendment jurisprudence in a world where anyone can provide content on a global scale with just a few clicks of a button? These are complex issues. But in the past 25 years, this Court has been instrumental in resolving them. Southern District judges have ruled that isolated genes are not eligible for patent protection, that advertisers' use of programs that store information such as user names and passwords do not violate federal privacy statutes, and that the mere act of posting a generic advertisement on the Internet cannot be construed as an effort to target an individual in any particular jurisdiction.

The Southern District Bankruptcy Court has handled a number of major cases in the past 25 years -- cases that last many years and require an enormous expenditure of resources. In 2002, WorldCom filed for bankruptcy in the Southern District. That was, at the time, the largest bankruptcy proceeding ever conducted in the United States. The record was soon broken, however, by the Lehman Brothers bankruptcy. And the large, complex cases didn't stop there. The Bankruptcy Court has handled the reorganization of General Motors, Enron, Delta, Chrysler, Kodak, and the Madoff bankruptcy. These are truly enormous undertakings, and the Southern District Bankruptcy Court has demonstrated its expertise in handling them efficiently.

Finally, it is worth noting this Court's role in the area of major financial litigation. It has sought to deal with issues arising from a new wave of envelope pushing in insider trading cases and has sought to provide increased transparency in the regulation of our financial institutions.

Before I end, I should note, however, that not all of the substance of today's cases would be foreign to Judge Duane or those in attendance at the anniversary 25 years ago. Traditional litigation, including major constitutional issues, is prevalent in the Southern District. And admiralty cases, the bread and butter of Judge Duane's work, still have relevance. One of the most significant cases in the past 25 years was in 2000, after the crash of Flight TWA 800, when Judge Sweet faced important questions of first impression regarding admiralty law and, more specifically, the Death on the High Seas Act. This serves as a reminder that while

much around us changes, much is still the same.

As the world continues to evolve, so will the challenges facing this Court. History has demonstrated that it is well equipped to handle these changes, and that is true now more than ever. The Court has an exceptional new class of judges that bring new life and fresh perspective to the Court. And it has also a beautiful new (although some of us consider it old) courthouse in which to carry out its important work.

I closed my speech in 1989 with a statement about what I considered a very special characteristic of the Southern District. It is equally true today, so I will say it again:

What we see, then, looking back -- and I would say looking ahead as well -- is a high volume of civil and criminal litigation which -- perhaps appropriately for the “Mother Court” -- is unmatched in any other court for its combination of diversity, newsworthiness to the public, and importance to the precedent-setting evolution of the common law. An important reason for that, of course, is reflected in what is here, and what goes on, in New York City. Another important reason over the years has been traditional high quality of the judges in this Court. To once again quote from the 150th anniversary, using the words of Chief Justice Hughes:

“The courts are what the judges make them, and the District Court of New York, from the time of James Duane, Washington’s first appointment, has had a special distinction by reason of the outstanding abilities of the men” -- and, I would add, women --

“who have been called to its service.”

I could not close without taking note of a very special characteristic of the Southern District: the sense of collegiality which pervades the relations among the judges, and between the judges and the lawyers who practice before this Court. This esprit de corps is remarkable and something we can all be proud of. This partnership -- this kinship -- is the heritage of our predecessors. We honor their achievements today and hope that all of us in the years to come can continue to contribute to the distinction of this great institution.

(Applause)

CHIEF JUDGE PRESKA: Thank you, Mr. Fiske. It is our hope that you will join us for the Court’s 250th anniversary.

MR. FISKE: Mine too.

CHIEF JUDGE PRESKA: Now, ladies and gentlemen, you will have noted that United States Marshal Eric Timberman processed down the center aisle holding aloft a large shiny object. He was followed by representatives of the Maritime Law Association. Returning to the Mother Court to explain the significance of the silver oar and to remind us of our roots as an admiralty court is our beloved colleague, Judge Charles S. Haight Jr. I call upon the Marshal to deliver the silver oar to Judge Haight.

(The Marshal delivers the Oar to the Bench.)

CHIEF JUDGE PRESKA: Judge Haight.

JUDGE HAIGHT: Chief Judge Preska, judicial colleagues, distinguished co-celebrants of this anniversary:

If we could be transported in time back to the first Tuesday of November, 1789, and attend the first session of this Court before Judge Duane, and at its conclusion we left Judge Duane's courtroom, possibly a more modest space than this one, and ventured out into the streets and among the buildings of Lower Manhattan as they existed in 1789, the world would seem to be a completely different place from what it is now.

But if on November 3rd, 1789, we left Judge Duane's courtroom, went to a Manhattan Island pier, and boarded a ship which cast off her lines, set sail, and steered a 90 degree course toward Europe, then in several hours the surrounding world would seem to be just the same then as it is now, as the land disappears astern and we find ourselves on the vast and trackless Atlantic ocean, our property and lives dependent upon the seaworthiness of the vessel carrying us and the skill of the mariners directing her navigation. Then, just as now, human fortunes were governed by the general maritime law, also called admiralty. When this Court began 225 years ago, there were, just as now, admiralty courts, admiralty judges, and admiralty lawyers. In an opinion in 1815, Justice Story wrote: "The admiralty is a court of very high antiquity, with a strong probability of its existence in the reign of Richard I, since the laws of Oleron, which were compiled and promulgated by him on his return from the Holy Land, have always been deemed the

law of the admiralty.” Justice Story might have noted that maritime laws were also traceable to the ancient Rhodians and Phoenicians, well before Richard I’s reign began in the 12th century. So it is not surprising that when this Court opened for business 225 years ago, it was largely limited in its jurisdiction to maritime cases, and remained so for the next hundred years, a century which, as Judge Rakoff pointed out in his recent review of the history of the Court, saw the expansion of the nation’s maritime commerce and its increased concentration in the Port of New York. While today the judges of the Court deal with issues of civil and criminal law that Judge Duane could never have dreamt of, maritime cases continue to be an important percentage of those filed. In 1999, when chief Judge Charles Brieant addressed the centennial celebration of the Maritime Law Association of the United States, he reported that in 1998, 748 maritime cases were filed in the Southern District of New York, 7 percent of the civil cases filed.

In its earliest days, Addison Browne was this Court’s first great admiralty judge. There have been others. And in 1909, District Judge Learned Hand came to the Court and remained until 1924, when he left to do something else somewhere else. The fascination of admiralty law has the power to attract previously untutored converts, as District Judge Hand’s career illustrates. Professor Gerald Gunther’s biography of Learned Hand describes Hand’s achievement of becoming “the nation’s most eminent” admiralty judge as “remarkable because he came to the bench without any background in maritime law.” “Nor,” Gunther writes, “except for occasional childhood ventures on a small sailboat near an uncle’s

hotel in New London, Connecticut, did he have any exposure to seafaring skills to help him adjudicate controversies over accidents on navigable waters. Yet Hand quickly mastered the intricacies. The best illustration of his skills are found in his decisions in numerous ship-collision cases.”

Had he still been with us, District Judge Hand might have brought those skills to bear when, in 1956, the passenger ships Andrea Doria and Stockholm, each on a voyage between New York and Europe, collided in the Atlantic. The ship owners, Italian Line and Swedish America Line, sued each other in this Court. The consolidated case was assigned to District Judge Lawrence Walsh, who appointed four special masters to preside over six weeks of depositions in this city, at the conclusion of which the universe of involved marine insurers got together in London and settled the entire case and all third-party plaintiffs. Judge Walsh signed the order closing all the cases before any trial, to the relief of the shipowners and their insurers, and the discomfiture of the entire admiralty bar of this Court. One can never predict when a federal district court will be transformed into an admiralty court by a disaster at sea.

Each district court sitting here today is an admiralty judge, or by the spinning of the assignment wheel will become one. We inherit the mantles of Addison Browne and Learned Hand, not through specialized judicial merit or ship-handling skill, but because it is our responsibility. And the responsibility endures. Since there will always be ships carrying passengers and cargoes, there will always be admiralty and maritime cases in this Court. Ships,

passengers, and cargoes have changed from those during the Court's earlier days. Ships are larger -- the newest containerships are so long and so broad that they cannot fit in any United States port and can only trade between European and Oriental ports. Cargoes today are carried in containers above deck on containerships, rather than being loaded into and discharged from the holds of smaller vessels by stevedores. Passengers today are more likely to be successful people embarking in comfort from New York on cruise ships, rather than sailing in the straitened circumstances of steerage to New York from Europe, hoping to succeed in a new country.

These changes are wrought by the evolving nature of the international shipping industry. The legal problems generated by the complexities of that industry also evolve. Judges of this Court become versed in the mysteries of the traditional maritime remedy of attachment as utilized in an age of electronic transfer of funds; we adjudicate the rights and responsibilities of parties to global maritime contracts of charterparty and the arbitration clauses in them; we draw the sometimes elusive lines of admiralty jurisdiction over commercial disputes; we divine the meaning of incomprehensible policies of marine insurance; and we try a case without a jury if it falls within the admiralty jurisdiction.

But whatever changes in industry practice may be reflected in contemporary maritime law, the admiralty judges of today, like their predecessors 225 years ago, will fashion and apply the rule of law to the human consequences when a peril of the sea becomes a reality. The ships of today may be immense and

largely automated, but officers and mates still stand watches, on the bridge or in the engine room; the age-old responsibilities of the seaman lookout have not been entirely supplanted by radar. The navigation rules of the road still constitute mankind's effort to avoid or reduce the risk of collision; fire at sea retains its ancient terror; the world's coastlines are alert to the risk of widespread pollution by oil from a stricken tank vessel; marine salvors maintain a watchful presence; loss of or damage to cargo, injury to or death of a crew member or passenger on board a ship remain commonplace occurrences. Admiralty cases will always arise from time to time because, unlike temporal practices that maritime industries may alter, the perils of the sea are eternal. "Protect me, Lord," goes the traditional mariner's prayer, "for Thy sea is so great and my boat is so small." That prayer resonates today, even though some boats are so large they cannot fit into any American port, because, however large or automated a ship may be, the world's oceans, which cover two-thirds of the planet and seem to be covering more each day, are greater still, and their fury, when aroused, is not deterred by human technology. Of necessity, this Court has always been a great admiralty court. It will remain so.

I close these remarks with the observation that the eternal nature of perils of the seas and the antiquity of admiralty law combine to explain the object that was produced and paraded at the beginning of this ceremony: the Silver Oar of the Admiralty. This oar was crafted in about 1725 by Charles LeRoux, a noted colonial silversmith. It served as the symbol of authority of the Vice-Admiralty Court of the Province of New York, a colonial court

created by the English Governor General in 1678. After the American Revolution the oar passed into private ownership, but it was obtained and presented at this court in 1941 by a group of admiralty lawyers headed by Charles Burlingham.

Traditionally, when a judge of the court was sitting in an admiralty case, the marshal or bailiff would precede the judge into the courtroom, bearing a silver oar and waving it over the judge until he was seated. The oar was then placed in a cradle below the judge's bench, where it rested throughout the session of the court. We have not performed that ritual in this Court for many years, but in 1999, Sir David Steel, a judge of the High Court of Admiralty in Great Britain, told our Maritime Law Association, on the occasion of its centenary, that a great silver oar sat in his court whenever he was hearing an admiralty civil action. That oar was made in about 1660, following the restoration of the monarchy in the person of King Charles II. There is nothing new about the concept of admiralty law.

It is appropriate that this Court's Silver Oar of the Admiralty be displayed during this ceremony, which recalls, among other subjects, this Court's history as an admiralty court. The fife and drum music is stilled. The pageantry is finished. The Oar of the Admiralty lies before us. I invite you to consider the shape and the stillness of the Admiralty Oar: the beauty of its utilitarian simplicity. The oar has never changed. You sit in your ship, grasp the oar's handle, place its blade in the water, pull, and the ship moves through the water: so humankind has been progressing over the waters since the beginning of recorded time. There is

something eternal about the oar. It is wholly fitting that this oar is a symbol of the law of the sea, and of this Court, sitting as an admiralty court for these few moments on a November afternoon.

For the sea itself is eternally fascinating, and so are ships and those who go down to the sea in ships, who by their daring or distress, courage or cowardice, foresight or foolishness, triumphs or tragedies of navigation, give employment to admiralty judges and lawyers, thereby generating that equally fascinating body of law that we call admiralty.

Chief Judge, I have completed my voyage. I am grateful for this opportunity to return to my home port.

(Applause)

JUDGE HAIGHT: I now pass the silver oar of the admiralty to that distinguished admiralty judge, Judge Duffy.

CHIEF JUDGE PRESKA: Thank you.

I now call upon a Co-Chair of our Anniversary Celebration, Judge Kevin Castel.

Judge Castel.

JUDGE CASTEL: Thank you, Chief Judge Preska.

There's no snappy phrase in the English language to describe a

225th anniversary, no term like “sesquicentennial” or “platinum jubilee.” Not many institutions reach this point. But this Court has celebrated the anniversary of Judge Duane’s first session every 25 years, at least since 1939. It’s an opportunity for each generation of lawyers and judges -- and the public -- to reflect on the work of this great institution and the people who populate it.

Right here in this Court, the loss-of-life claims from the sinking of the Titanic were heard. Anna Sofia Sjoblom swore that she awoke after the collision and escaped on one of the last lifeboats to leave the ship’s side. A crew member jumped from an upper deck into her lifeboat, with his boots landing on her head, and she lost consciousness. It is here that the claims from the torpedo attack on the Lusitania were heard. The evidence was that the ship sank 18 minutes after the attack, resulting in the deaths of 1,195 innocents. It was here that the loss-of-life claims were heard from the fire aboard the General Slocum in the East River, in which over a thousand passengers, mostly German immigrant women and children, perished.

It is here that Cold War dramas unfolded like the espionage trial of Julius and Ethel Rosenberg and the perjury trial of Alger Hiss. It is here that Judge Woolsey rejected government efforts to halt distribution of James Joyce’s *Ulysses*. Random House republished his decision in all future editions of the work. It is here that defamation suits were brought against CBS and Time Magazine by General William Westmoreland and Israeli General Ariel Sharon.

It is here that two former Attorney Generals of the United States were indicted and tried for crimes while in office -- Harry Daugherty of the Teapot Dome era and John Mitchell of the Watergate era. Juries were unable to reach verdicts in the two trials against Daugherty, and John Mitchell was acquitted. It is here that financial frauds of national dimensions have been prosecuted, among them the cases against Bernie Madoff, Ivan Boesky, Michael Milken. It is here that the East Africa Embassy bombers and other terrorists have been brought to justice, and where many organized crime cases have been successfully prosecuted. Many other trials in this Court, serious in their own right, became fodder for tabloids. You may recall the trials of Bess Meyerson, Imelda Marcos, Leona Helmsley, and Martha Stewart.

Presidents have been kind to this Court in their appointments. Chief Judge Preska told you about Judge Duane. He was succeeded by John Laurence, the Judge Advocate General of the Continental Army. Laurence sat on the Military Commission that tried and convicted British officer John André, who had been the spymaster for Benedict Arnold. Laurence left the court upon his election to the United States Senate.

The last judge of the District of New York and the first judge of the Southern District of New York was William P. Van Ness. In the practice of dueling, each contestant was permitted one person on the "field of honor," called a "second." And the "second"'s role was to report on acts of bravery or attend to a bloody wound. Van Ness was "second" to Aaron Burr in the fatal duel with Alexander Hamilton. He was convicted for his role and disenfranchised by

the State of New York for a time, but that did not prevent his appointment by President Madison. Judge Van Ness was in office 200 years ago this year when there was a division between the Northern and Southern Districts.

Great stories have emerged from our history. One will be familiar to anyone who has sat in a law school classroom. In the summer of 1936, President Franklin Roosevelt appointed Samuel Mandelbaum as a judge of this Court. In his early weeks on the bench, Judge Mandelbaum was assigned to criminal cases. And then one morning in October 1936, he was assigned to the civil part. And his very first case out of the wheel was a personal injury action by a man who had lost his arm in an accident. His name was Harry Tompkins. Little did Judge Mandelbaum know that morning that the case would become the occasion for the Supreme Court's pronouncement in *Erie Railroad v. Tompkins*, one of the most cited cases in American jurisprudence.

This story calls to mind the experience of Judge Murray Gurfein, who, during his first week on the bench, was assigned an application by the government to enjoin *The New York Times* from publishing the Pentagon Papers. Judge Gurfein ruled against the government, headed by the President who had just appointed him to the bench, and, after a minor derailment in the Circuit, Judge Gurfein was upheld by the Supreme Court.

So three points emerge, at least as far as I'm concerned. The first: it is important that you come to work each day. You never know what will happen when you arrive. Second, each judge, from the

day he or she takes the oath of office, is equal in rank to every other. And, third, judges have no role in the cases or issues that come before them. Lawyers decide what cases to bring and what issues to raise. Without a strong, fierce, independent-minded bar, there would be no cases of import or interest in this Court.

In the spoken words today you've heard an anecdote or two. But, with the help of many, an inspired idea of Judge Batts has come to life. You will take home with you today a flash drive that contains a wealth of information about this Court, including the biographies of the 132 men and 22 women who have sat on this Court, their cases, and their writings. You will come to learn of judges of this Court who have gone on to be Secretary of War, Solicitor General, Attorney General, and Director of the FBI. You will learn that our beloved former colleague, Justice Sonia Sotomayor, was not the first judge of this Court to ascend to the nation's highest court -- Judge Samuel Blatchford has that distinction.

We hope that you will appreciate that the glory of this court is not in the personalities or intellects of those who sit on its bench. We are only temporary custodians. It lies in the process handed down to us by generations before of deciding disputes without fear or favor according to the facts and the even-handed application of the rule of law. It is summed up in the oath that each of us, including Judge Duane, has taken over the last 225 years: to "administer justice without respect to persons, and do equal right to the poor and to the rich..."

We thank those of you who made this Anniversary Celebration possible, and we hope that all will enjoy and learn. Thank you.

(Applause)

CHIEF JUDGE PRESKA: Thank you, Judge Castel.

The celebration of the 225th Anniversary is not merely a day, but it's a yearlong series of events. And to give you an overview of these events, I call on the Co-Chair of the 225th Anniversary Committee, Judge Batts.

Judge Batts.

JUDGE BATTS: Judge Preska, my thanks to you, the 107th judge of the Southern District of New York and our distinguished chief.

Judge Castel and I are very excited about the celebration events planned, starting today, until October, 2015. 225 years is a lot of history to celebrate, even if you have a year to do it in, and I will mention a few of the highlights.

Today, outside this courtroom, you can see the actual Commission of and transmittal letter to the first Judge of the District of New York, James Duane, signed by President George Washington, along with Judge Duane's portrait.

We also have today the commission of the fourth Judge of the District of New York, John Sloss Hobart, signed by President John Adams, along with his portrait.

It is interesting to note that the Duane and Hobart commissions are identical to those of judges appointed today.

Finally, the 1789 Minute Book, opened to the page of the first session on the first Tuesday of November, November 3rd, 1789, is also outside the courtroom.

We hope you take the time to visit the extraordinary Exhibit of Courtroom Art by the artists who have contributed their work, in the Thurgood Marshall Courthouse in the main lobby. We will have a reception to honor our sketch artists on January 22nd, 2015, in Thurgood Marshall. The exhibit will be up until May 4th, 2015.

We are delighted that the New York County Lawyers' Association will honor our bench on its 225th anniversary at their 100th Annual Dinner on December 17th, 2014, at the Waldorf Astoria Hotel. We are so pleased that both Justices Ruth Bader Ginsberg and Sonia Sotomayor have accepted NYCLA's gracious invitation to attend and will give remarks.

Many great jurists have graced the bench of the District of New York and the Southern District of New York. For our 225th celebration, we will be honoring three of them.

On March 26, 2015, there will be a panel on Edward Weinfeld, the 42nd judge of the Southern District of New York, whose work ethic, legal intelligence, and high expectations from those who practiced before him are legendary.

On April 23rd, 2015, the Supreme Court Historical Society and the Historical Society of the City of New York will present a panel on Judge Learned Hand, the 14th judge appointed to the Southern District of New York, who served with distinction on our Court for 15 years.

And on September 17, 2015, we will honor former Chief Judge Constance Baker Motley, the 67th Judge to be appointed to the Southern District of New York, a woman of many firsts as a litigator, politician, and jurist, including first woman and first African-American appointed to our Court.

Our celebration will also have the reenactment of famous cases. On January 15th, 2015, the Federal Bar Counsel Inn of Court will present its acclaimed reenactment of the 1971 Pentagon Papers case before Judge Murray I. Gurfein, the 70th Judge appointed to the Southern District of New York.

As an aside, not only was Judge Gurfein a great judge; he was a good friend. He got the Pentagon Papers case because he had taken over Part 1 duty for his colleague and friend Judge Lawrence W. Pierce, the 71st Judge appointed to the Southern District of New York, for whom I had the distinct honor and pleasure of clerking, along with my esteemed co-clerk, the legendary and inestimable

Jo Ann Harris, who passed away last Thursday morning.

On February 26th, 2015, The William P. Conner Inn of Court, named for a true patent guru, the Honorable William Curtis Conner, the 81st judge appointed to our bench, will present “American Pin v. National Button, a Patent Trial.”

And on May 14th, 2015, at our Court in White Plains, will be presented the 1735 trial of John Peter Zenger, journalist and publisher of the New York Weekly Journal, who was charged with seditious libel for printing articles critical of the colonial Governor William Cosby.

The celebration will conclude on October 19, 2015. We are extremely fortunate to have operatic artists from the Martina Arroyo Foundation perform The Trial of Don Giovanni. Ms. Arroyo was awarded a Kennedy Center Honors Award for a lifetime of contributions to American culture, presented to her by our own Justice Sonia Sotomayor in December 2013.

In closing, let me say that, in our courthouses, we have constant reminders of our Court’s history, from displays of portraits and photographs of former judges and historic documents in our hallways and courtrooms, to inspire us daily. However, this year’s celebration of 225 years of existence gives us a marvelous opportunity to reflect on how our bench has grown and diversified, how our laws have changed as we have as a society, and how we have incorporated technology to improve our delivery of justice to those we serve.

And to my extremely knowledgeable, tireless, patient, and beloved Co-Chair, Judge P. Kevin Castel, the 131st judge appointed to the Southern District of New York, I wish to offer my heartfelt congratulations today on the actual date of the 11th anniversary of his swearing in to our bench.

(Applause)

CHIEF JUDGE PRESKA: Thank you, Judge Batts. And congratulations, Judge Castel.

Ladies and gentlemen, a reception will be held in the Constance Baker Motley Jury Assembly Room on the first floor. And of course you are all invited. As Judge Batts mentioned, on display in the foyer of this courtroom are the oil portraits of the two early judges, their commissions, their letters from President Washington and President Adams and the rest. They will be on display until 7 p.m. tonight. So you are all encouraged to come up and down and to view them if you have the opportunity.

On behalf of the Court, I thank all of those who made today's program possible. Many of their names are listed in the program. We thank the National Archives and the New York Historical Society for the historic materials. And we thank the Museum of the City of New York for the return of the Silver Oar. And finally, I would single out Judge Batts and Judge Castel, the co-chairs of this anniversary celebration, and note with thanks Judge Castel's lengthy and successful negotiations with the numerous institutions that hold the historical artifacts. Thank

you, Judge Batts and Judge Castel.

(Applause)

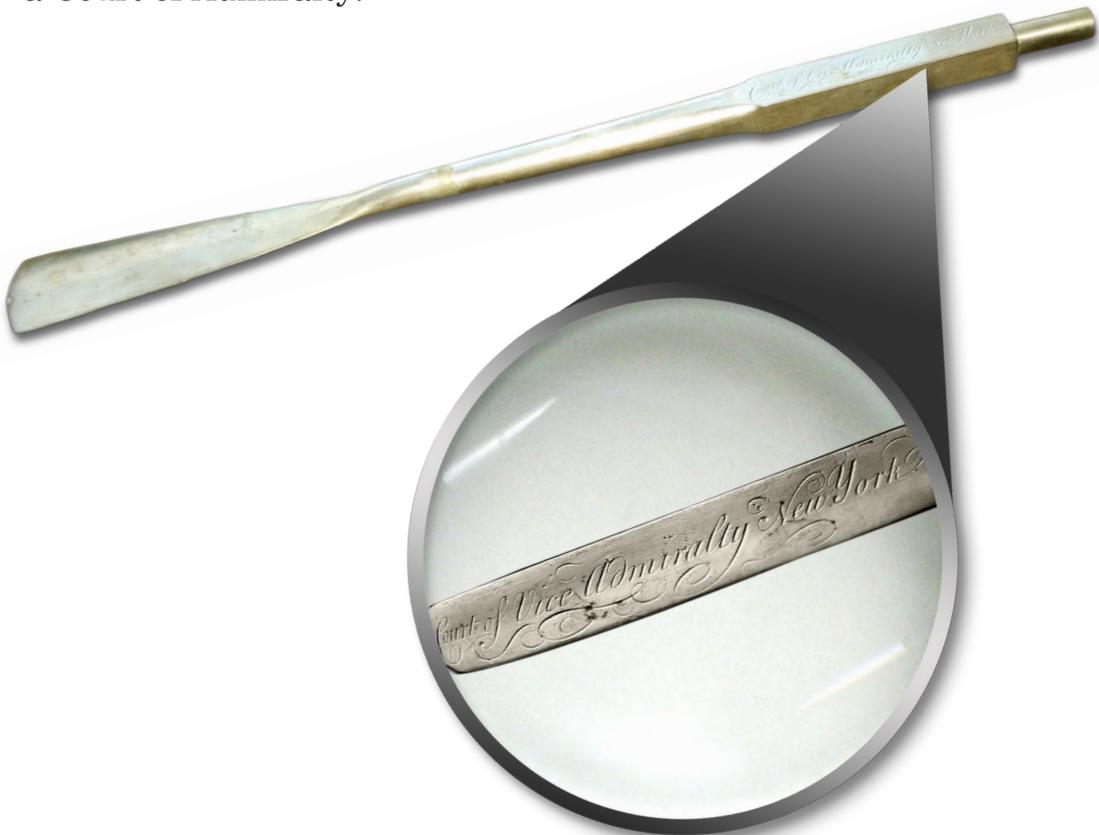
CHIEF JUDGE PRESKA: The purpose for which this special session has been convened having been accomplished, the Clerk of Court will adjourn Court sine die.

THE CLERK OF COURT: All rise. The Court is adjourned sine die.

The Silver Oar

Throughout the British Empire from the early part of the eighteenth century, a silver oar was the mace of the Vice-Admiralty Courts. The oar was the outward and visible sign of the authority which the Court derived from the Crown to arrest persons and vessels, and it was laid on the bench in front of the Judge when he was sitting. The silver oar of the Court of the Province of New York was struck circa 1725 by Charles LeRoux, a noted colonial silversmith who served as the official silversmith of New York City. The oar has Mr. LeRoux's initials ("C.L.R") and has the inscription "Court of Vice-Admiralty New York" with the British Coat of Arms on one side and the Crowned Anchor, which was the seal of the Admiralty Court of Great Britain, on the other.

There has been a Court with Admiralty jurisdiction in New York City since 1678. The Vice-Admiralty Court of the Province of New York was dissolved in 1775. It was succeeded by the Admiralty Court of the State of New York until 1789, when the court of the District of New York became a Court of Admiralty.



George Washington to James Duane, Letter Accompanying Commission

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United States, September 20th 1789.

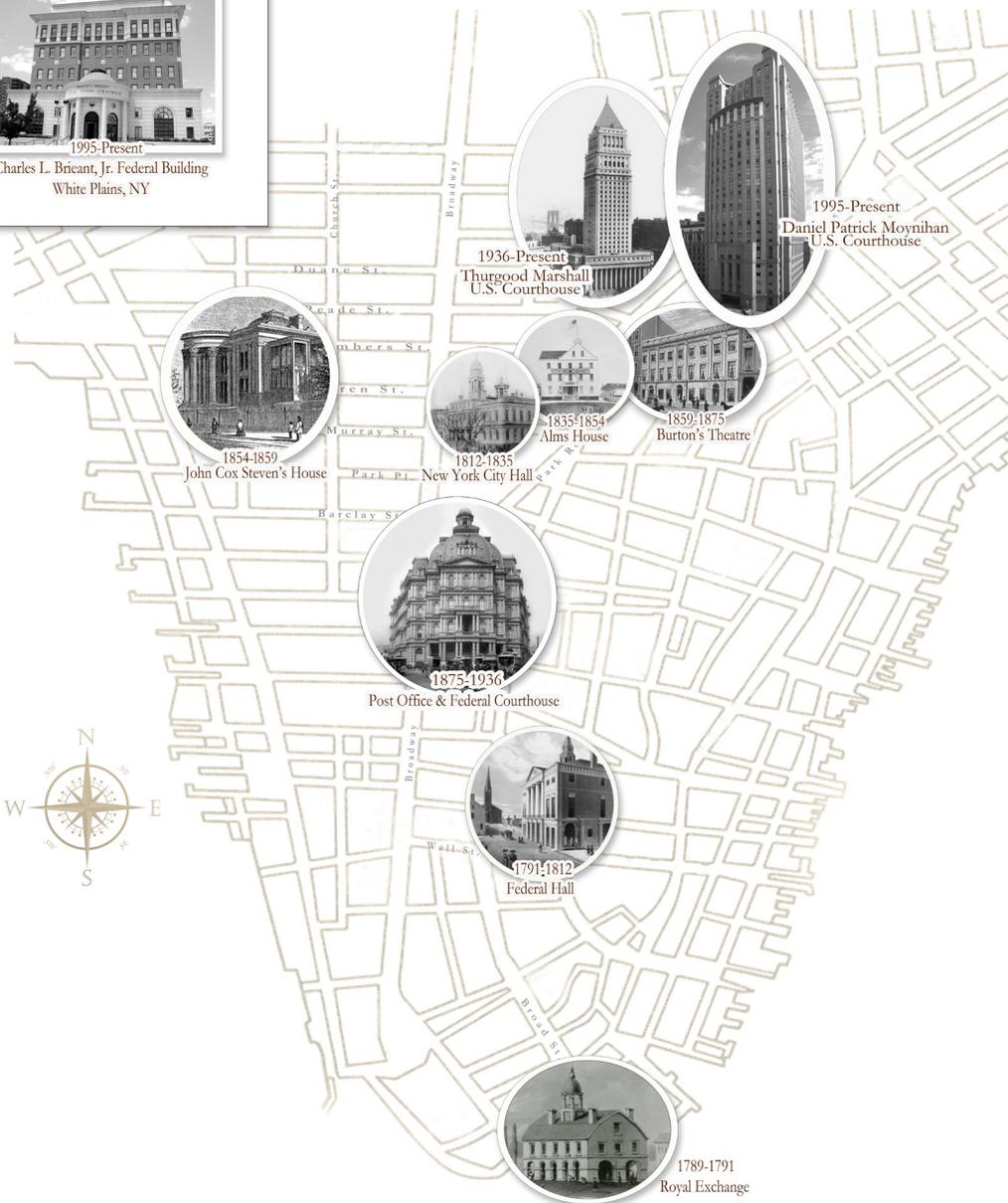
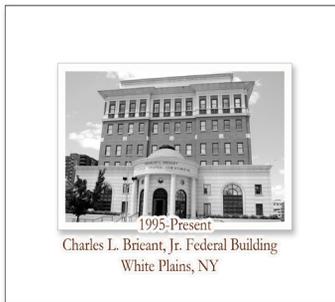
Mr.

I have the pleasure to enclose to you a commission as Judge of the United States for the District of New York, to which Office I have nominated, and, by and with the advice and consent of the Senate, have appointed you. In my nomination of Persons to fill offices in the Judicial Department, I have been guided by the importance of the Object — considering it as of the first magnitude, and as the Pillar on which our political fabric must rest, I have endeavored to bring into the high offices of its administration such Characters as will give stability and dignity to our national Government — and I persuade myself they will discover a due desire to promote the happiness of our Country by a ready acceptance of their several appointments.

The laws which have passed relative to your office, accompany the commission.

I am Sir,
 With very great esteem,
 your most obedient servant,
 G. Washington

The honorable
 James Duane Esquire.



THE UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF NEW YORK

SITTING LOCATIONS

The Court wishes to express its gratitude to the many Court personnel who aided the Anniversary as well as the following:

<i>Prof. John Q. Barrett</i>	<i>St. John's University, School of Law</i>
<i>Prof. Richard B. Bernstein</i>	<i>New York Law School</i>
<i>Sheila Boston</i>	<i>Federal Bar Council</i>
<i>Cary Casola</i>	<i>Administrative Office of U.S. Courts</i>
<i>Robert Clyne</i>	<i>Maritime Law Association</i>
<i>Sara Davis</i>	<i>National Archives and Records Administration</i>
<i>Jonathan Donnellan</i>	<i>New York City Bar</i>
<i>Dorothy Dougherty</i>	<i>National Archives and Records Administration</i>
<i>Dr. Gary Ford, Jr.</i>	<i>Filmmaker</i>
<i>Edward Friedland</i>	<i>District Executive</i>
<i>Trevor George</i>	<i>Clerk's Office</i>
<i>Sophia Gianacoplos</i>	<i>New York County Lawyers</i>
<i>John D. Gordan III</i>	<i>Author</i>
<i>Chris Gushman</i>	<i>National Archives and Records Administration</i>
<i>Robert L. Haig</i>	<i>New York County Lawyers</i>
<i>Elly Harrold</i>	<i>District Executive Office</i>
<i>Vilia Hayes</i>	<i>Federal Bar Council</i>
<i>Javier Hernandez</i>	<i>Administrative Office of U.S. Courts</i>
<i>Susan Henshaw Jones</i>	<i>Museum of the City of New York</i>
<i>Gregory P. Joseph</i>	<i>Supreme Court Historical Society</i>
<i>Ruby J. Krajick</i>	<i>Clerk of Court</i>
<i>Gary Lee</i>	<i>District Executive Office</i>
<i>Paul Lenci</i>	<i>New York Ancients</i>
<i>Luis M. Lopez</i>	<i>Second Circuit Librarian</i>
<i>Richard Maidman</i>	<i>Patterson Belknap Webb & Tyler LLP</i>
<i>Marilyn Marcus</i>	<i>Historical Society of the New York Courts</i>
<i>Giacomo Mirabella</i>	<i>Museum of the City of New York</i>
<i>Heidi Nakashima</i>	<i>New-York Historical Society</i>
<i>Evan Pappas</i>	<i>Second Circuit Library</i>
<i>James Puskuldjian</i>	<i>District Executive Office</i>
<i>Albert M. Rosenblatt</i>	<i>Historical Society of the New York Courts</i>
<i>Sean Rugenstein</i>	<i>District Executive Office</i>
<i>Michael Ryan</i>	<i>New-York Historical Society</i>
<i>Jay G. Safer</i>	<i>New York State Bar Association</i>
<i>Paul Sarkozi</i>	<i>New York State Bar Association</i>
<i>Prof. Elizabeth Schneider</i>	<i>Brooklyn Law School</i>
<i>David Sellers</i>	<i>Administrative Office of U.S. Courts</i>
<i>Charles S. Sims</i>	<i>New York City Bar</i>
<i>Elizabeth Williams</i>	<i>Elizabeth Williams Studio</i>
<i>John D. Winter</i>	<i>Patterson Belknap Webb & Tyler LLP</i>
<i>Scott Wixon</i>	<i>New-York Historical Society</i>



225th Anniversary
1789-2014

<http://history.nysd.uscourts.gov>