

Section 2

2. Letter from Chief Judge Robert F. Peckham to the Parole Commission after the initial hearing, 6/14/91
 - 2.1. Biographical information on Chief Judge Peckham

Chief Judge Peckham wrote to the Parole Commission after he heard that the initial hearing examiners had recommended a maximal continuance until Larry could again be eligible for parole. In his letter, he reiterates his reasoning for sentencing as he did, describes the mitigating circumstances and the numerous pleas from leniency he received from jurors, prosecution witnesses, former Peoples Temple members, family members who lost loved ones in Jonestown, and Larry's family and friends.

United States District Court

Northern District of California

San Francisco, California 94102

**Chambers of
Robert F. Peckham
United States District Judge**

June 14, 1991

**Carol Pavilack Getty
Chairman
United States Parole Commissioner
or
Acting Commissioner for the Western Region
1301 Shoreway Road, 4th Floor
Belmont, CA 94002**

**RE: LAYTON, Laurence John
Reg. No. 20752-053
CR 80-0416 RFP
INITIAL PAROLE HEARING -
JUNE, 1991
FCI Terminal Island**

Dear Chairman Getty:

I am writing to you as the sentencing judge in the Laurence John Layton case. Mr. Layton appeared before me for sentencing on March 3, 1987, after I presided over his two lengthy trials which extended over a substantial time.

I was advised that Mr. Layton appeared for his initial parole hearing on June 4, 1991, at the Federal Correctional Institution, Terminal Island. I understand that the recommendations of the two parole examiners were for the matter to be handled as an "Original Jurisdiction" case. I believe the examiners also recommended that Mr. Layton be denied parole consideration for another fifteen (15) years.

The purpose of this letter is to express my concern about the latter recommendation of the examiners and to offer you my perspective regarding a just disposition in this case.

Mr. Layton was found guilty of Conspiracy to Kill a Congressman, Aiding and Abetting the Murder of a Congressman, Conspiracy to Kill an Internationally Protected Person, and Aiding and Abetting Attempted Murder of an Internationally Protected Person. (Mr. Layton's first trial resulted in a mistrial, with the jury voting eleven to one for acquittal on the "Conspiracy" charges and seven to five for acquittal on the "Aiding and Abetting" charges.) As I noted on the day of sentencing, the four Counts on which Larry

Layton was convicted strike at the very heart of a representative democracy and carry possible sentences that reflect their severity. Congressman Ryan alone was unwilling to ignore the reports of intolerable conditions existing in Jonestown, and he alone had the courage to travel with his party to Guyana to investigate whether Jonestown was the idyllic paradise described by Jim Jones. His death was a tragic loss to his family, to the Congress, and to this nation. His courage and conviction have been lost to us, and his leadership has been silenced and is sorely missed.

In addition to the tragic death of Congressman Ryan, the events at Port Kaituma air strip, on November 18, 1978, resulted in the brutal deaths of three newsmen and Patty Parks, a People's Temple member attempting to escape the horror of Jonestown. The terrible events of that day also resulted in the serious injury of numerous other individuals. Vernon Gosney and Monica Bagby, former People's Temple members, also attempting to escape Jonestown, were themselves shot and seriously injured by the defendant. These people will carry the heavy burden of this tragedy with them for the rest of their lives.

When examining the tragic circumstances that occurred in Guyana in 1978, I believe one must first attempt to focus on the pathological environment that existed in Jonestown, Guyana. Following the shooting at the airport, the fact that 914 followers of Jim Jones committed suicide bespeaks of the distorted and inexplicable way of life that pervaded Jonestown. Such a mass suicide is unique in modern history. In all of recorded history, there have been few occurrences that even remotely approaches the mass suicide in Guyana.

In the end, Jim Jones destroyed any individual will to live that remained in Jonestown, and caused the deaths of 914 adults and children. Although not directly related to the conspiracy for which Mr. Layton has been convicted, this final atrocity is essential to the understanding of the environment in which he lived at Jonestown.

Prior to Mr. Layton's sentencing, numerous survivors wrote to me to describe the destruction of individual will that had occurred in Jonestown and to express their opinions that Larry Layton was, himself, a victim. Many of these letters are powerful and moving testimony to the madness of Jonestown and to the spell cast over the community by the dominating and authoritarian presence of Jim Jones. A juror expressed her feeling regarding the circumstances of Jonestown by stating "We (the jury) do feel that the circumstances were almost unbearable." "The vast numbers who died are testimony to the extraordinary power of that evil man (Jim Jones)."

Another Jonestown victim, Vern Gosney, wrote of the extreme pressure that Layton and others in Jonestown were under due to "a blaring public address system 24 hours per day, rules enforced so strictly that there were public meetings involving the humiliation of those who broke the rules." "It was a closed community and he (Layton) was extremely needy of Jones' approval." Mr. Gosney concluded by stating "I don't feel he is a threat to anyone." Another victim of Jonestown, Jean Brown Clancey, noted in a letter to me:

Jim Jones began his harangues about 'the conspiracy' against him -- a reflection of his own degraded mental state -- years before 1978. There are documents to show that he thought the CIA, Treasury Department, Interpol, Senator Stenus and others were plotting to destroy him. When I was visiting Jonestown, I was taken on a walk in the jungle by Pat Grunnet, a deceased Temple member. She told me that they had been fired on by 'Nazis' and had picked up German language radio transmissions in their vicinity. The hysteria rampant in the community had been fully disclosed. I bring it up only to further my point that Larry's thinking was completely captive -- it was not his own.

Ms. Clancey concluded her letter by stating "I sincerely hope that you will see the complexities involved in this case as distinguishing and mitigating circumstances." Ms. Clancey's husband, People's Temple member Tim Clancey, also wrote to me stating "At worst, Larry is a victim of circumstances ... I hope that you will give deep consideration to the mitigating circumstances in this case."

Steven Katsaris, whose daughter committed suicide at Jonestown, wrote stating "As you ponder his sentence I pray you will consider what his actions in Guyana have already cost him." "Hold him accountable, but have mercy -- mercy that stems from an appreciation of the paranoid, twisted reality in which they lived."

In most Conspiracy convictions, and in most multi-defendant criminal cases, the court has before it a number of co-conspirators and defendants, and it must assess the relative culpability of each of the defendants and sentence them accordingly. Mr. Layton's role in the offense, as established by the evidence at the trial, was secondary. The testimony at the two trials established that Mr. Layton was approached by some of Jones' top leaders and asked to stop certain People's Temple members (the "defectors") from leaving Guyana. Congressman Ryan had promised that anyone wanting to leave Jonestown would be provided transportation, and they would be allowed to leave first. Larry Layton was asked to board an airplane (the first airplane scheduled to leave with the "defector") and to shoot the pilot of the plane, after it became airborne. At the time this

plan was adopted, it was believed that Congressman Ryan and his party would not be with this group and that the Congressman and his party were going to spend another night at Jonestown to insure that everyone who wanted to leave was permitted to do so.

Later, after Mr. Layton had already boarded the truck that was to take the "defectors" to the airstrip, the Congressman changed his mind and decided to leave at approximately the same time. Two airplanes were brought in to take the people back to Georgetown. Mr. Layton insisted that he take a place on the small plane that was to carry the "defectors" and was to be the first plane to take off.

After the plane was loaded and as it waited at the end of the runway, approximately 300 yards away from the Ryan party, a group of People's Temple members riding on a tractor trailer approached the Congressman's plane. Congressman Ryan and others saw that the individuals on the tractor trailer were armed with rifles and handguns. As the individuals on the tractor trailer started firing at the Ryan party, Layton attempted to force the pilot of the small plane to take off, but he refused. Mr. Layton then began to fire his weapon at Monica Bagby and Vernon Gosney, wounding both individuals twice. He also attempted to shoot Dale Parks; however, his weapon misfired. When the shooting commenced at Congressman Ryan's plane, the pilot of the plane on which Layton and others were riding turned off the plane's engine. After shooting Gosney and Bagby, and attempting to shoot Dale Parks, a struggle ensued between Parks and Layton and Parks eventually obtained the weapon. After the shooting subsided and the individuals on the tractor returned to Jonestown, Mr. Layton was taken by two civilian survivors of the airport tragedy to a constable in nearby Port Kaituma. Mr. Layton remained incarcerated in Guyana for approximately two years following the airport shooting.

Even though the circumstances at the Port Kaituma airfield and at Jonestown were unique, that did not relieve the court of its obligation to assess the defendant's relative blame for the crime. As I noted on the day of sentencing, there can be no doubt that Jim Jones was, himself, primarily responsible for the deaths and serious injuries inflicted at the Port Kaituma airstrip on November 18, 1978. All agree to this fact.

The court was also convinced, after hearing all of the testimony in this case, that Larry Layton's role in the conspiracy to murder Congressman Ryan and Deputy Chief of Mission Richard Dwyer was less significant than that of a number of other conspirators. As was noted above, Layton was not, himself, among the people who actually shot at the Congressman and his party. Furthermore, the court was not convinced, after hearing the evidence, that Layton was himself an active leader in the planning of the murders. Although he committed a serious and unpardonable crime in

shooting two innocent people and attempting to shoot a third, his role in the conspiracy for which he has been convicted was not as significant as that of many of the other conspirators.

Seven psychiatric reports were submitted to the court in this case. Three psychiatric reports were provided by the government and three by the defense. Dr. Otto Bendheim also provided a "psychiatric autopsy" report on Jim Jones. The government psychiatrist and the defendant's psychiatrist, while differing as to the sanity of Larry Layton at the time of the commission of the offense, all agreed about the domination of Jim Jones in the Jonestown setting.

Dr. Bendheim noted in his report that Jim Jones initially attempted to do good for People's Temple members, but then lied to them, cheated them, manipulated and exploited them, sadistically brutalized them, and used them for sexual pleasure. In the end, he killed them.

Dr. Bendheim documents at length the many techniques of coercive persuasion used by Jim Jones, including constant discussions of mass revolutionary suicide, physical intimidation and psychological coercion aimed at destroying family ties, prohibiting members from leaving Guyana and deprivation from privacy, sleep, free speech, and free association. In addition, members of People's Temple were subject to degrading punishment and public humiliation, food deprivation and hard labor.

Despite some disagreement among the psychiatrists as to whether the impaired state of mind of Mr. Layton was such as to constitute a legal defense to the charges, there was no disagreement, even by the primary prosecution psychiatrist, Dr. Seymour Pollock, that Mr. Layton had been subjected to powerful "coercive persuasion." This persuasion was imposed by Jim Jones over Layton's ten year involvement in People's Temple and during his six to seven month stay at Jonestown. I noted at the time of sentencing that in the end, Jim Jones destroyed any individual will to live that remained in Jonestown, and caused over 900 people to take their own lives and the lives of their children.

Following the second trial, I received four letters from jurors asking for leniency for Mr. Layton. One juror wrote "I realize Larry Layton is guilty of taking part in a horrible crime, but at the same time I believe he is as much a victim as a participant. And I wish you would give some thought to my position of his being victimized and show leniency in your judgment."

A witness for the prosecution and a victim, Harold Cordell, stated in a letter to me "I plead, Your Honor, for leniency for Larry Layton so that he can begin to mend his life which was, like mine, torn to shreds by Jim Jones." Another victim who suffered the loss of her son, her brother, and cousin wrote to me

regarding Mr. Layton. After discussing at length mitigating circumstances in Mr. Layton's case, she concluded her letter by stating "Please consider leniency in this matter." Reverend John Moore and his wife, Barbara, the parents of Mr. Layton's first wife who committed suicide in Jonestown, wrote following the trial "In the interest of both justice and mercy, we hope that Larry might be given the minimum sentence, even probation if that is possible." Rebecca Moore, whose sister committed suicide in Jonestown, stated "I sincerely ask for leniency in this matter."

The court received in excess of 60 letters regarding Mr. Layton, and all presented mitigating circumstances and asked for leniency at the time of sentencing. I found it of particular significance that the court received letters not only from four jurors, but from prosecution witnesses, victims who were, themselves, shot by Mr. Layton, and a large number of letters from people who had either been in Jonestown or had lost relatives there.

An additional factor that I considered, prior to imposing sentence, was the tremendous amount of grief and remorse expressed by Mr. Layton regarding the terrible events that happened both at Port Kaituma and at Jonestown. The probation officer noted in his report

During lengthy interviews with this officer, Mr. Layton expressed what I believe to be overwhelming remorse about the entire tragedy at the airstrip. He stated that the deaths and injuries at the airstrip will haunt his conscience for the rest of his life, and he spoke of a need to prove to himself and to others that he was worthy of being alive and having survived the tragedy.

Although Larry Layton must be held responsible for his actions, the court is convinced that a just sentence also requires consideration of the environment in which Layton and other members of Jonestown were virtually imprisoned. After weighing all of the evidence presented at his trial and taking into consideration all of the information provided in the presentence report, the extensive psychiatric reports, the defendant's and government's sentencing memoranda, in addition to the numerous letters that were presented to the court, it was my judgment on the day of sentencing that Mr. Layton should be committed to the custody of the Attorney General for a term of fifteen years in Count One, for a term of life in Count Two, for a term of fifteen years in Count Three, and for a period of fifteen years in Count Four. I ordered that the sentences were to run concurrently, and I further ordered that Mr. Layton be sentenced under Title 18, Section 4205(b)(1). I then recommended that parole eligibility be fixed at five (5) years for each of the four Counts.

I remain of the belief that given the totality of circumstances in this uniquely complex case, that my sentence in 1987 was just.

I hope that my experience and perspective is of some assistance to you as you face the difficult task of assessing Mr. Layton.

Sincerely,

ROBERT F. PECKHAM
United States District Judge

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Judge Robert F. Peckham

Contents

In Memoriam: Hon. Robert F. Peckham	3
The Runaway Grand Jury: An Excerpt from Judge Peckham's Oral History	10
Society News	15

From the Editor

Leigh Ruth Shields

This issue of the *Historical Reporter* is dedicated to the memory of Judge Robert F. Peckham, the founder of the Northern District Historical Society. In the first part of the issue, we reprint the speeches delivered at the Memorial Tribute to Judge Peckham, held at Stanford University. In the second section, we publish an excerpt from Judge Peckham's oral history, which tragically remained incomplete at his death. As is noted in the introduction to the excerpt, the Historical Society plans to interview friends and colleagues of Judge Peckham to supplement that part of the oral history he did complete.

Judge Peckham's deep interest in the history of the Northern District and his dedication to the Historical Society will be missed greatly by all involved with the organization. His example will continue to be an inspiration.

d. 17 Feb 1993

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photo credit: The front page photograph of Judge Peckham was taken at the San Jose Courthouse in 1985 by Ira Nowinski. It is reproduced courtesy of the Archives, U.S. District Court for the Northern District of California.



Judges of the Northern District Court in the late 1960s. Left to right are Judges Albert C. Wollenberg, Lloyd H. Burke, William T. Sweigert, Alfonso J. Zirpoli, and Robert F. Peckham. Not pictured are Judges George B. Harris, Oliver J. Carter, and Stanley A. Weigel.

IN MEMORIAM

HON. ROBERT F. PECKHAM

The addresses which follow were delivered at the Memorial Tribute to Judge Peckham held March 8 at the Stanford Memorial Church, Stanford, California. Speaking in order were the Hon. Thelton E. Henderson, Chief Judge, U.S. District Court for the Northern District of California; Paul Brest, Dean of Stanford Law School; Hon. William A. Ingram, Senior Judge, U.S. District Court for the Northern District of California; Wylie R. Sheldon, Judge Peckham's first law clerk; and Joseph Houghteling, friend of Judge Peckham for forty-five years.

Hon. Thelton E. Henderson

When Chief Judge Robert Peckham swore me in as a District Court Judge in July of 1980, I knew him only as a Judge who was already legendary for his willingness and ability to listen with great patience to all sides of a case, as a Judge who cared deeply for those who sought justice in his court, and as a Judge who ruled with great courage on some of the most important and controversial issues of the day.

So you can perhaps imagine my feeling of good fortune when I learned that my new chambers would be right next door to Judge Peckham's. I can tell you that *no* new Judge could ever hope to be so lucky as to have Robert Peckham as a next door neighbor, and as a soon-to-be friend, role model, mentor and wise counsel.

That was some thirteen years ago. And at that time, it never would have occurred to me that I might some day

inherit the position of Chief Judge that Robert Peckham then so dauntingly occupied. And what an inheritance he has left, first for Judge William Ingram and now, myself – and of course, always for the Court.

Bob Peckham contributed to our Court in many, many important ways and was instrumental in whatever stature we achieved as an institution during his judgeship. It will be difficult for any of us to even approach his record. It will be impossible for any of us to forget what he has done for us, and the legacy he has left us.

In the broadest sense, Bob Peckham's contributions were of two sorts. First, and perhaps most obviously, he was an innovator. In an extraordinary range of areas he was a prolific source of new ideas and new programs and new directions for the Court.

Many of these innovations, of course, had to do with the way we process cases. They began with the telephone conference call, which Bob Peckham pioneered on this Court. And while it has been rumored that Bob and his telephone were virtually inseparable, there is no truth whatever to the rumor that the portable phone was invented specifically to allow Bob to leave his chambers during the workday!

This initial effort to save attorney time and client money soon expanded to the area of Alternative Dispute Resolution (ADR). Bob's interest in ADR is well-documented, and he was a national leader in efforts to develop less expensive and faster means of resolving disputes in our federal courts. In this regard he was indeed a visionary, seeing long before most of us the limits of the adversarial process. And while a few others also saw those limits, it was typical of Bob, more than anyone else, that he chose to leap into the void and actually do something about it.

Among his many contributions were to increase the resources devoted to settlement, such that our Court now settles more civil cases, and, because of this, has fewer civil cases that actually go to trial, than any of the ninety-four District Courts in the United States. He also developed new procedures for Court-Annexed Arbitration and established the Early Neutral Evaluation Program, which is now being duplicated by so many other courts.

Bob also played a crucial role in shaping the recently enacted Civil Justice Reform Act (popularly called "the Biden Bill"), which has mandated the development of ADR Programs in all of our federal courts. And it is no exaggeration whatsoever to assert that, with the passage of the Biden Bill in 1992, the rest of the country was just beginning to catch up to Bob Peckham's vision of the way justice ought to be dispensed in our courts.

Bob established many programs in addition to ADR. Among the most notable of these has been the Federal Trial Practice Program. Unique in the nation when it was begun in 1982, this creative program provided additional training in trial advocacy, at affordable prices, to over 2,000 attorneys in this district, both in San Francisco and San Jose. Bob, of course, played a major role in having our Court sit in San Jose, a matter I know my colleague, Judge Ingram, will discuss later.

For many of you, however, it is probably impossible to think of Bob Peckham without remembering his great and abiding love of history. He understood and appreciated the power of history, and as a result we have a rich legacy of materials for future generations to learn about the history of our Court and our Judges. It was at his direction that this Court formed the first District Court Historical Society in the country, an organization that has been copied by numerous federal courts — district and circuit — throughout the nation.

Time precludes me from listing the many other ways Bob improved the way we do business in the Northern District of California and, ultimately, in the federal judiciary nationwide. I have tried to sketch some of the high points, but I can accurately summarize by noting that there is hardly any aspect of the administration of justice in our Court that was not paid attention to and improved upon by Bob Peckham during his years on the bench.

I've just described Bob Peckham as an innovator. But, in addition to his innovations, Bob left a second, and perhaps even more important legacy to the Northern District. That legacy is one of the spirit. No one who came to know Bob could help but be struck by his remarkable personality. Bob treated everyone he encountered with courtesy, with kindness, and with generosity. His ready smile, his amazing grace, and his warmth left an indelible impression on all

fortunate enough to meet and know him. He was a gentleman in the old fashioned and best sense of the word.

As Chief Judge, Bob maintained a court marked by friendship and collegiality. There are some courts, as is no secret, that are divisive in their nature. Not Bob's court. Whatever the matter at hand, his skills and dedication helped remind us that we were colleagues striving toward a common goal for a common good. In addition, Bob always reached out to include others and to allow their voices to be heard. He sought good relations with all sectors of the bench and bar and with all the agencies involved in the business of the federal court. When he called them, collectively, "the federal family" he meant it — they knew he meant it, and we all felt and acted as "family."

Bob Peckham's dual contribution — as a brilliant and innovative court administrator, and as a man of gentle spirit, decency, dignity, integrity, and a scrupulous sense of fairness — form a legacy that will be with us as long as law is practiced in our courts.

As we look to the future, we on the Court know that not one working day will pass when what we do, and what the attorneys do, will not be affected by Bob Peckham's wonderful vision of the law and by the spirit he left with us.

He has enriched the lives of all of us, and we shall miss him dearly.

Paul Brest

I had admired Robert Peckham from afar even before I came to California. And I came to admire him all the more up close — that doesn't always happen — as I came to know this gentle and wise man during the past twenty years.

Not long ago, it was my privilege to present Bob with Stanford Law School's Alumni Award of Merit. It is a sad privilege today, but a privilege nonetheless, to remember a man who — on and off the bench — did such great service to his community, his nation, and to the rule of law.

In the course of preparing to present the Alumni Award, I spoke to lawyers who had appeared before Judge Peckham and to present and former law clerks. As everyone here knows, Bob was widely loved and admired by everyone who came in contact with him — by prosecutors and defense attorneys alike, by his colleagues on the bench, by law clerks blessed with his mentorship. He was described as being in

the best of the liberal tradition. Not doctrinaire, but someone with a deep and abiding commitment to individual rights. A judge with the courage of his convictions, who would not bend to pressure from the public or the government. Soft-spoken, but persistent in going after what he believed to be right.

This is not the place to review Judge Peckham's contributions to civil rights, civil liberties, and to other areas of law. It suffices to say that he has left an important legacy in the federal reports. And his continuing influence goes beyond judicial decisions to innovations in alternative dispute resolution – which have been adopted by courts throughout the country. Indeed, his legacy extends well beyond the borders of California and the United States. In recent years, Bob marshaled his extraordinary talents and energy to help improve the administration of justice throughout the world. Together with colleagues from the bench and bar, and usually accompanied by Carol, he traveled a dizzying itinerary to put on actual demonstrations of trials – from Argentina to Bangladesh, Chile to Sri Lanka, Uruguay to the People's Republic of China.

When asked how he enjoyed his work, Judge Peckham once responded: "Being a judge is a wonderful way to be involved in this profession. It gives you great satisfaction and happiness to have an input into the major issues of the day and to play a role in the resolution of people's disputes." How many people have benefited from his dedicated and compassionate service in this role.

It is hard to believe that this deeply warm and deeply principled man is no longer with us. But Bob lives on in the passion for justice that he has inspired in everyone whose spirit he touched.

Hon. William A. Ingram

Chief Judge Henderson has marshaled for us the substantial and enduring accomplishments and contributions of Judge Peckham. There was one in particular that I will dwell on – it took years to accomplish – it gave Bob great satisfaction and absorbed his interest – it was the establishment of the four county venue at the southern tip of our district with the court house in San Jose. The venue is comprised of the Central Coast counties of Santa Clara, San Benito, Santa Cruz and Monterey. Presently approximately 1.5 million people live and work within the four counties.



Chief Judge George Harris administering the oath of office to Judge Peckham, 1966. (Archives, U.S. District Court for the Northern District of California.)

Bob Peckham by heritage and by personal inclination was deeply interested and concerned with that part of our district – his great-grandfather, also a Robert F. Peckham, sat as judge of the Superior Court in Santa Cruz County; two of his uncles were distinguished San Jose lawyers; he himself conducted his law practice in Sunnyvale and Palo Alto and for seven years was judge of the Santa Clara County Superior Court, twice serving as Presiding Judge.

When Bob Peckham first came to the District Court in 1966 twenty years of effort and planning to establish San Jose as a place of holding court had been conducted by Judge Robert Beresford and Russell V. Roessler and the devoted group of lawyers from the four counties who became and functioned for years as the Federal Court Advisory Committee. Just prior to Judge Peckham's coming, Congressman Don Edwards of San Jose introduced legislation which effectively redesigned the structure of the federal judicial presence in California: it created the Eastern, Central and Southern Districts and among other places named San Jose as a place of holding court.

What was needed was an incumbent district judge who would vigorously implement the statutory authorization – that authorization did not compel the establishment of a court in San Jose – it permitted such establishment. The implementation was left to the District Court acting by rules. Chief Judge Peckham was just the man for the task!

He started in a rented courtroom in the Santa Clara County Court House. The calendar was not heavy at first: draft evasion cases came with the troubled times — criminal cases moved from San Francisco — a few civil cases also brought from San Francisco. Almost at once Chief Judge Peckham sought permission of the Circuit Council of the Ninth Circuit to require that all criminal charges alleged to have occurred in the four southern counties be filed and tried in San Jose. This was granted and quickly implemented. However, it was not until 1983 that a similar rule was adopted for civil cases. Chief Judge Peckham persevered in his efforts to get suitable quarters for the court and to establish a full service, all purpose, court in San Jose. The quarters came first — Congressmen Mineta and Edwards fought the good fight and in 1979 Congress appropriated the necessary funds to acquire property and construct the court house. Chief Judge Peckham had at that time spent six years in the rented courtroom and another seven years in temporary prefabricated court quarters known to all as “the trailers” and “the shack.”

As a result of the labors of Judges Peckham and Beresford, of Russell Roessler and Bob Morgan and their devoted associates on the Federal Court Advisory Committee, there is a full service Clerk’s Office; the Offices of the United States Attorney and Federal Defender; Pretrial and Probation officers; empanelled grand juries in service; five district judges, two magistrate judges and three bankruptcy judges — the calendar is heavy and the active judges are swamped.

All this is the result of many hands — but without the presence of Bob Peckham as the first incumbent judge it would never have survived the first fragile period. No other judges shared Bob Peckham’s commitment to the San Jose Court in 1966. The existence of the court and its availability to serve the nearly two million people who live in the four counties and do business there is a living, ongoing, and perpetual monument to Judge Peckham — his memory is honored and treasured.

May the Lord bless him and keep him.

Wylie R. Sheldon

Mrs. Peckham, Ann, Sara —

Chief Judge Henderson and other distinguished members of the State and Federal Judiciary —

Dean Brest and other distinguished members of the Stanford Law School faculty —

Distinguished members of the Bar —

Friends of Judge Peckham —

Ladies and Gentlemen:

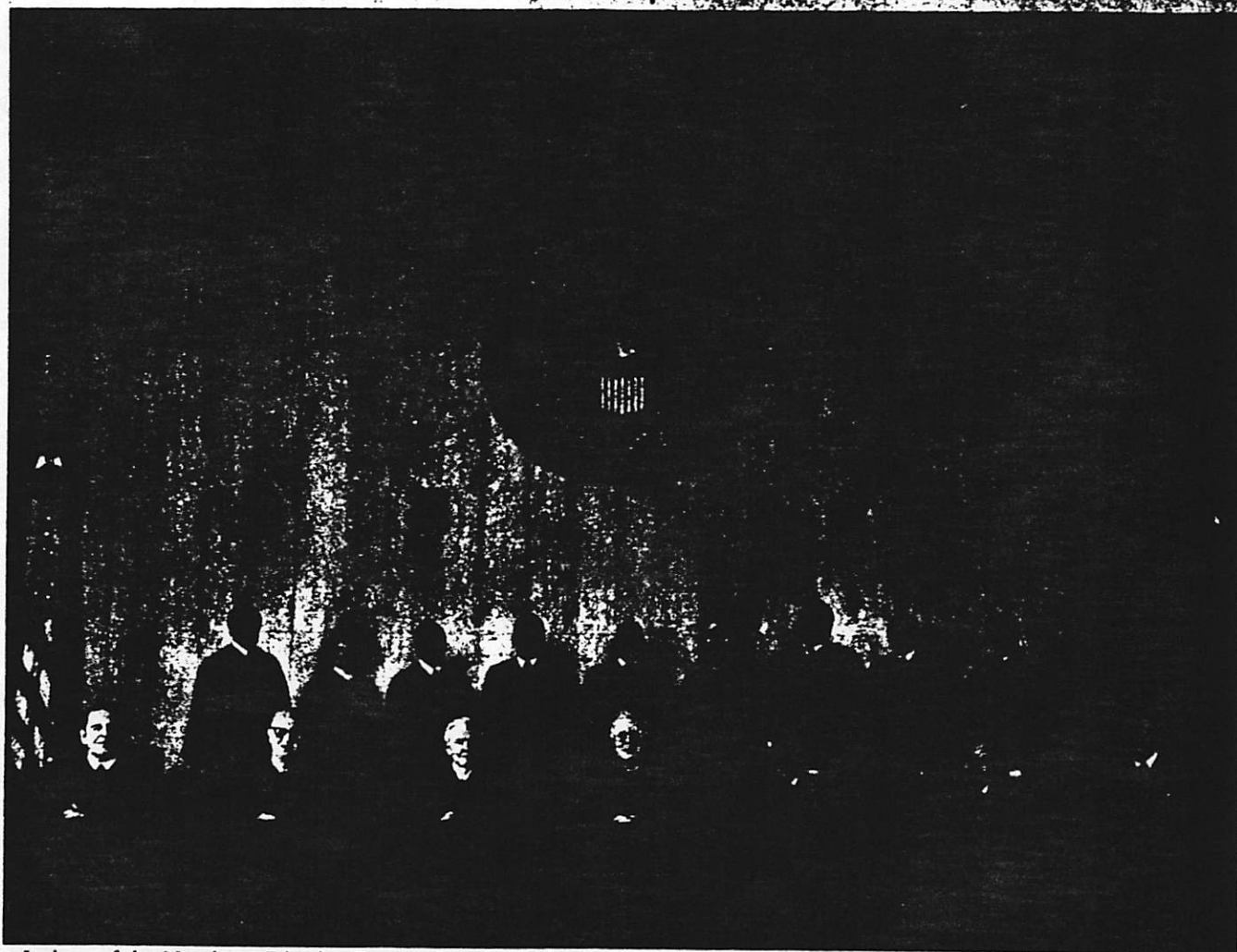
I am Wylie Sheldon. I was Judge Peckham’s first law clerk after his appointment to the Federal bench in 1966.

I have been given the honor by Carol Peckham of saying a few words today on behalf of all of Judge Peckham’s more than a quarter century of law clerks, many of whom are here today. I am grateful to Carol for this opportunity.

I would like to think that Carol bestowed this honor on me not merely because I happened to be first in line, but because my respect and affection for Judge Peckham was second to none — at least among my fellow clerks. But I know (as does Carol) that that’s not the case. I happen to believe that my apprenticeship with Judge Peckham as his law clerk was the most profound and enriching experience of my professional life. I know, however, that each of the Judge’s law clerks has at least the same affection for the Judge as I do. Thus, I am here before you today simply because I was in the right place earlier than others.

What accounted for the extraordinary bond between Judge Peckham and his law clerks? In my view the answer lies in the extraordinary relationship which the Judge established with each of us. From the moment that we entered his Chambers, the Judge welcomed us as if we were co-participants with him — fellow colleagues, if you will — in a shared enterprise of doing nothing less than trying to determine the truth, to ascertain the law and to correctly apply the law — in short, to administer justice. Judge Peckham’s style was never to proclaim the answer from on high and then send us to the library to find authority which would sustain his answer on appeal. No, the Judge always conveyed, in his gentle and respectful way, that he would be grateful if we would help him find the right answer; and that our ideas would be very important to him in this task.

What an experience for a young person fresh out of law school! All of a sudden our thoughts and utterances were not simply competing for grades in the classroom, but could, through the Judge, have an impact in the administration of justice — could tip the scales in matters of substance in the world of commerce, public policy or, indeed, where a person’s freedom or even life was at stake. What heady stuff! No wonder that many of us feel that our professional careers have gone downhill from our clerkship.



Judges of the Northern District Court, 1984. In the back row, left to right, are Judges Charles A. Legge, Marilyn Hall Patel, Thelton E. Henderson, William W. Schwarzer, William H. Orrick, Jr., William A. Ingram, Robert P. Aguilar, Eugene F. Lynch, and John P. Vukasin, Jr. In the front row, left to right, are Judges Samuel Conti, Robert H. Schnacke, Lloyd H. Burke, Robert F. Peckham, Alfonso J. Zirpoli, Stanley A. Weigel, and Spencer M. Williams. (Photograph by Ira Nowinski; courtesy Archives, U.S. District Court for the Northern District of California.)

Each of us has indelible memories of sessions in the Judge's Chambers when he would invite deliberation upon the matter at hand—when he would solicit our ideas and then lead us through questions and discussion until he found an acceptable answer to the problem. Each of these almost daily occurrences was orchestrated by Judge Peckham with the light and upbeat touch, the extraordinary warmth, and the easy, but dignified informality which seemed to come so naturally to him. No stiff formality or pomp or rank or mystique of the black robe in Judge Peckham's Chambers—rather an unfailingly calm and collegial effort to dispense justice. And through it all, with no disrespect for the seriousness of the problem at hand, Judge Peckham seemed always to look for the opportunity to enliven our work with the droll humor and sharp wit which were so much a part of the Judge's personality.

Nothing rattled Judge Peckham or would ruffle the calm of his Chambers. When the pressures were most intense, the Judge's only concession to the occasion would be to quietly affirm, "This, too, will pass," and, at least in those benighted early days, light up a cigar.

And in and around our work, Judge Peckham always went out of his way to show an astonishing interest, as I look back now, in us and our lives and our professional hopes and ambitions. No, not out of his way—for this caring for us was very much a part of the Judge's way—and was in keeping with his unvarying attitude toward his fellow man.

Of course, on occasion we could glean that the Judge early on had an answer in mind to the problem at hand. All

of us knew, from almost our first contact with Judge Peckham, that certain fundamental principles guided his actions as a Judge: an unshakable belief that each litigant (especially the little person) has a right to be heard, and heard with respect, and heard in an atmosphere of respect for truth, and respect for the judicial process and for its ability to achieve justice.

And Judge Peckham's justice, as you all know, was capital J justice – the cornerstones of which were respect for human diversity, faith in the human potential and, above all, reverence for human life, with a particular and unfailing sense of mission to ensure that, in all confrontations – both in and out of the courtroom – between an individual and an institution (whether private or public) the field on which they play is level and the rules are fair.

It's little wonder that each of us who wore the mantle of Judge Peckham's law clerk feels such extraordinary affection for the Judge. And to me it is equally apparent why so many litigators have similar feelings about Judge Peckham. It's my observation that the Judge treated the advocates who appeared before him with the same respect and courtesy that he displayed toward his law clerks; and that most came away from Judge Peckham's courtroom believing that Judge Peckham had, to a greater or lesser extent, given them the opportunity to participate with him in a common enterprise to seek out the truth, find the right answer and see that justice be done. To me there's little mystery why Judge Peckham was one of the most respected trial judges on the Federal Bench and, indeed, why in 1983 he was named by *American Lawyer* magazine as the best Federal trial judge in the nine Western States.

Perhaps certain of the foregoing remarks about Judge Peckham's notions of justice and how justice should properly be administered are somewhat short on scholarship and long on sentiment – and surely are dealing in concepts not common for a lawyer such as I who makes a living by putting shopping centers together. However, these notions were important to Judge Peckham and he wanted them to be important to us, his law clerks. And because of Judge Peckham, they were important to us during our clerkship and, I would venture to say, they have also been important in our professional lives. So I think it's not inappropriate that I remark upon such matters today.

Like each of my fellow law clerks and each of you, I will miss the Judge. In his commitment to justice, his faith in his fellow man and his courtesy to all and especially to us, his law clerks, Judge Peckham had and will continue to have a profound impact on our personal and professional lives.

Joseph Houghteling

First, a confession. I'm not a member of bar or bench but an admirer of both since I've known Robert F. Peckham during forty-five years of close friendship. We've shared many personal experiences: first marriages that ended sadly far too soon, and we've each been fortunate in having daughters who are close friends to this day and second marriages that have worked so happily. I am going to speak mostly about that time that many, especially the younger generation, don't believe existed, before Robert Peckham was a judge.

I do want first to say something special about Carol, Ann and Sara for I've seen quite a good deal of them in the last several difficult months. During this time of hope and despair, they gave continuing and full support, devotion and love to Bob.

Bob was proud of his Democratic party roots begun when his mother, Evelyn, a marvelous person, took him as a toddler on precinct rounds, hoisting him by his elbows so he could place leaflets in the postal slot. Often he pointed out to me the Palo Alto store front where he worked in 1938 as youth chairman for Culbert Olson, the first Democrat elected governor in this century.

He also told me how proud he was to march up Market Street in the 1939 parade of labor organizations and civil liberty groups celebrating the pardon of Tom Mooney, a cause celebre of liberal groups.

As a new young attorney should, he participated in community organizations. Recently a woman told me that at age six in 1945, she was taken to the Sunnyvale Lions Club Christmas Party, sent forward to a bearded figure to receive her present, stopped, burst into tears, crying "That's not Santa Claus – that's Bob Peckham!" While it was traumatic to her then, she said a lifetime friendship with Bob is well worth the loss of a belief in Santa Claus.

Bob and I met in 1948, both in our twenties, he a few years older starting as the youngest assistant U.S. attorney in San Francisco, while I began a newspaper career in the Santa Clara Valley. It was quite a different place then, with separate small towns: Sunnyvale had a population of 4,500; San Jose, 90,000; and between them were wide orchards and fields in what then was known as "the Valley of Heart's Delight."

While as a U.S. attorney, he couldn't be active in politics, he still could discuss them and have as close friends those

who were involved. I remember the 1948 November election night that was spent at Evelyn's and Bob's home close by here in College Terrace when we were amazed and so pleased with the result. Not only was Harry Truman re-elected, but Bob could remain at the U.S. Attorney's office that challenged and interested him even though many of his friends wanted him to return to Santa Clara County to resume his community and political activities.

Not that he wasn't still an observer of Democratic politics. I have a picture of him attending the 1950 Democratic State Convention in Sacramento. I noted also in the photo Homer Thompson and Oliver Carter, both of whom went on to judicial careers, perhaps a suggestion political participation is a useful asset in becoming a judge.

The change of the national administration brought Bob back to us in 1953. One of his law offices was in Sunnyvale which was fine with me since I published the paper there. We recorded in a front page story his becoming a part-time United States Commissioner, the first step on his judicial career; we endorsed his successful candidacy for the Foothill Community College Board and the fine campus you can see from freeway 280 is part of his doing; and we commended the Democratic County Committee for electing him its chairman.

On one occasion our photographer took a picture of Bob, injured in a Bayshore head-on accident when another car came across the dividing line. Since he was going to a San Jose campaign meeting, we made sure candidates Pat Brown and Clair Engle knew of his sacrifice on their behalf.

I suspect you who have aspired to judgeships know the uncertain time while the governor considers the many applications. Though Bob was a clear choice, there was still nervous waiting until one early fall day in 1959 Evelyn Peckham walked along Palm Drive to a Stanford event where Governor Brown was to speak. The governor's limousine pulled along side her, Pat Brown stuck his head out the window to shout: "Mrs. Peckham, you tell Bob not to worry, I'm going to make him a superior court judge." In such an informal way did such great news arrive.

I still have the page one clipping of Bob being sworn in. Left to right, another new judge, Gerald Chargin; center, Bob; at right, the patriarch of the county judiciary, Judge William James, each of them in that posed shot having his right hand in the oath position. What was of special interest to me was that Judge Chargin was fifty-five years old, Judge James' age was not noted but it was somewhere in the seventies, and Bob was thirty-eight. This age span did point out Bob was the beginning of a new generation of judges.

He had been advised to make himself known around the county for his first election as judges even formally unop-

posed were listed on the ballot and open to a write-in contender. So he and I campaigned together on several occasions, he telling of himself, I for some state park bonds. He did enjoy this, getting out into the community, and together, we became members of the Order of Moose, for what else could one do when asked by the people who invited you to talk.

Then came the justifiable effort to gain a federal court for the expanding Santa Clara Valley with the firm opposition of the San Francisco judges and that city's establishment law firms. But reason triumphed, the court was gained and then Bob, the logical candidate, was nominated.

On one of his last days on the superior court an irate defendant, just sentenced and fists waving, rushed at Bob; quite sensibly, the judge made a hasty departure through the door to chambers. Bob was later quoted as saying: "Some of my colleagues thought it very undignified to run but that story appeared on the same day as my Senate confirmation so I was too euphoric to be concerned."

I remember well Bob being sworn in as a federal judge. This was a major event in San Jose and Santa Clara county. The scene was the crowded County Supervisors Board Room; the incumbent federal judges arrived together on a bus; sat en banc for the ceremonies; stayed on a short time afterward even though there was a festive reception; then reboarded their bus to return promptly to San Francisco from this distant San Jose outpost.

Once I experienced the people-results of one of Bob's decisions. I was on a regional transportation board and at one meeting in came unannounced thirty-five to forty people, waving small booklets, somewhat like Chairman Mao's. Finally I understood their chants; these were "Peckham, Peckham, Peckham." The booklets given us reproduced his Highway 238 decision, where in Hayward those who might be displaced, generally minority residents, were extended the greater protection of federal law. Having delivered their message, they went back into the night, the chant "Peckham, Peckham, Peckham" slowly dimming.

Bob always enjoyed, as I do, reading newspapers. When he and Carol traveled, Judy and I would clip items of interest for them and they'd do the same for us. Bob particularly appreciated good obituaries, and I do believe he would have approved those written of him.

The ones I read in the *Chronicle*, the *Mercury News*, the legal dailies, the *Country Almanac* were more than the writers' "who, where, what, and why." Through the vaneer of the professional reporting shone friendship, respect, admiration, affection, even love. And to this friendship, respect, admiration, love I can only add, "So Say We All."

PECKHAM, Robert F. CHIEF JUDGE, UNITED STATES DISTRICT COURT, Northern District of California. Succeeded to position April 8, 1976. Judge, same court, 1966-76 (nominated by President Johnson, confirmed by US Senate, commission issued, and oath, all in 1966). [Pioneered court's use of phone conference calls for pretrial conferences.] Judge, Superior Court, Santa Clara County, 1959-66, appointed by Governor Brown, Sr. Presiding Judge, 1966, 1965, and 1961-63. US Commissioner, 1957-59 (part time). Private law practice: Palo Alto and Sunnyvale, both in Santa Clara County, and San Francisco, Calif, 1953-57 (partner, Darwin, Peckham & Warren); and Palo Alto and Sunnyvale, 1946-48. Chief Assistant US Attorney (1952-53; chief, criminal division), and Assistant US Attorney (1948-52), Northern Dist of Calif, San Francisco. Admitted to Calif Bar Dec 11, 1945. LL.D. (1973, honorary), Univ of Santa Clara, Santa Clara, Santa Clara County. LL.B. (1945), Stanford Univ Law School, Palo Alto (Phi Delta Phi). Attended Yale Univ Law School, New Haven, Connecticut, 1941-42. B.A. (1941), Stanford Univ, Palo Alto, Calif (Phi Beta Kappa). Administrative Assistant to Regional Enforcement Attorney, federal Office of Price Administration, 1942-43. Born Nov 3, 1920 in San Francisco, Calif. Married (1st) Harriet M. Behring Aug 15, 1953 in Carmel Mission, Calif (deceased April 5, 1970). Two daughters: Ann Evelyn and Sara Esther. Married (2nd) Carol Potter June 9, 1974.

Participant, Fifth Federal Practice Institute, "Case Management and Discovery Control," 1982 (panelist). Author: "A Judicial Response to the Costs of Litigation: Case Management, Two Stage Discovery Planning and Alternative Dispute Resolution"; and "The Federal Judge as a Case Manager: The New Role in Guiding a Case From Filing to Disposition," 69 *Calif L Rev* 770 (1981).

Founder and Chairman of the Board, United States District Court Northern District of Calif Historical Society, 1980—. Member: Supreme Court Historical Society; Budget Committee, the United States Judicial Conference; The American Law Institute; American Bar Assn; Santa Clara County Bar Assn; Bar Assn of San Francisco; Stanford Historical Society; Council of Stanford Law Societies (Chairman, 1979); and Council of The Friends of the Bancroft Library, 1981—. Trustee, World Affairs Council, 1979—. Vice President, Society of California Pioneers, 1977—. Chairman, Advisory Committee, California Friends Outside, 1971—. Former Trustee: Calif Historical Society, 1974-78; and Foothill College District, 1957-59 (President, 1959). Former member: Board of Visitors, Stanford Law School, 1969-75 (Chairman, 1971-72). Former Chairman (1981-84) and Vice Chairman (1981-82), American Bar Assn's National Conference of Federal Trial Judges. Former Chairman, Speedy Trial Committee of the Ninth Circuit.

Named "Best Federal Trial Judge in Ninth Circuit Courts" (Alaska, Arizona, California, Hawaii, Idaho, Nevada, Montana, Oregon, Washington, Guam, and North Mariana Islands) by *American Lawyer* [New York based monthly publication] in 1983 (4 criteria used were: legal ability, temperament, willingness to work hard, and integrity). Recipient: award from Legal Program of Center for Public Resources, March 1986, for his "Judicial Response" article, supra; national award from

Center for Public Resources, March 1985, for developing Early Neutral Evaluation Program (project to reduce client litigation costs); and Brotherhood Award, Santa Clara County chapter, National Conference of Christians and Jews, Feb 24, 1968. Democrat.

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