

John A. Sutro, Sr. Memorial

May 19, 1994

**Pillsbury Madison & Sutro
Library, 20th Floor
San Francisco, California**

JOHN A. SUTRO, SR. MEMORIAL

BILL EDLUND: We're all very pleased that Betty, Mrs. Sutro, and her daughter, Betty, and her son, Jack, our former colleague, grandchildren and friends of Jack and so many from the firm joined with us this afternoon.

With our loss of Jack Sutro, there's really another milestone in the life of Pillsbury Madison & Sutro. For the first time since our roots were put down in 1866, we'll not have a Pillsbury, a Madison or a Sutro. That's nearly 130 years. Jack's father, Alfred, began practice in 1894 with this firm. That means that we've been fortunate, or graced, is a better word, in having a Sutro with us for over a century. Jack was with us for nearly 65 years since he joined us as the 24th lawyer in this firm in 1929.

Now today we gather, at least in my view we gather, not to grieve Jack and not to be sorrowful. I think he would not want that, but simply to recall, perhaps to reflect upon and enjoy some of the memories of a truly admirable and outstanding man. He was unique. He was one of a kind, many sides. Our former partner, Dick Odgers, who was not able to be with us today, said he was a giant and remembers him as a "titan of the bar, whose like will not be seen again." He has touched many of us in this room and I hope the few of us who will speak today will illuminate for all of us some of the facets of this very wonderful man.

Marc Mattson was one of Jack's very good friends. He celebrated with Jack, usually at the Sutro ranch in Napa, their same birthday on July 3, for many years, I think over 40 years. Because of the closeness of Jack and Marc and their families and our firms, we thought it was very important to have Marc with us. He's traveled from Los Angeles this morning to be here and to say a few words.

MARC MATTSON: This is a strange speaking occasion for me. Usually, if I am to make a speech, I would know to whom it was done. It would have something to do with knowing what kind of jury it is. I hardly know what to say. But, I guess I should report that I was

sleeping soundly on a delightful evening in Southern California when I was awakened by a beautiful angel in my room who said she was a messenger from Jack Sutro. She said that if there was going to be a situation like this one, he wanted somebody who would, at the very outset, say that he had been a very friendly man. That was my job and I was able to tell his messenger that I could do that in about two minutes because I've known him so well.

The message to me was that the life of Jack's friendly conduct towards others, particularly towards lawyers, would be the thing that should be talked about on this occasion. Since Jack Sutro is likely to be listening from high above to what we're doing at this time, I'll have to say that when July 3rd comes, I shall be remembering the best that I can in memory of Jack Sutro because it will be my birthday too. It happens to be almost the 40th birthday together for each of us.

Our many remarkable birthday occasions usually occurred at the Sutro ranch on Atlas Peak near Napa Valley. His being always an attentive, friendly and a careful host was exemplified when Jack warned his famous guest, Eva Gabor, of an increase in the season's rattlesnakes. This caution kept Eva in her assigned room most of the time. The fact is, however, our careful host was the only one who was ever bitten by a rattlesnake in that area. That was obviously his being friendly to the rattlesnake.

There are other friendly and significant occurrences in Jack's busy lifetime. For example, when he played a friendly game of cards on Air Force One with President Harry Truman. And, definitely friendly, when the Sutros moved out of their Jackson Street home to let President Ford use it. There are many birthday guests who were fondly grateful to Jack and Betty Sutro and who could testify to their friendly conduct and it was always there believe me. Thank you.

BILL EDLUND: Francis Marshall started as a summer law clerk in 1930 with this firm. He's been with the firm almost as long as Jack and longer than any of our other colleagues.
Francis

FRANCIS MARSHALL: Thank you. When I first came with the firm in 1930 and 1931, Alfred Sutro, Jack's father, occupied the large corner office at the far end of the east wing. Next was a much smaller office occupied by Mr. Alfred's secretary, Sue Cast; and next to that was a still smaller office occupied by Jack. We associates irreverently called it "the bassinet."

I have many fond memories of Jack and Betty, who entertained me and my then wife the year after I joined the firm as an associate, and later as a partner. When we first were entertained by the Sutros, we were invited to dinner and an elegant dinner it was. We were admitted to the apartment on Nob Hill by a tuxedoed butler type who served the meal, and a delicious meal it was--one that was long remembered. But I won't dwell on social life.

Jack was a figure of his own carving. He was bold to say the least. I remember that there was the litigation with the artichoke growers. About a year or two after I came and joined the firm, N.W. Ayer, the advertising firm, called upon our firm to collect some money owed by the artichoke growers. It happened that artichokes are grown on a coastal belt stretching from South San Francisco to Monterey, and they are grown by a bunch of predominantly Italian immigrants who banked at the Bank of Italy, which became the Bank of America. They formed an association and called upon N.W. Ayer, the advertising firm, to polish up their image. Some how, the northern county people seemed to get the best of it because the southern county people were not selling as many artichokes as the Northern California growers. They wouldn't pay N.W. Ayer's bill for promoting them. So, Ayer came to the firm and the case devolved upon Jack. Jack first sent a marshal, a deputy U.S. Marshal, around to all these artichoke growers to serve them with a complaint. They paid no attention to the complaint, not understanding it. But they certainly paid attention a little later when Jack got a Writ of Execution on a default judgment and served that on the Bank of America where the growers kept their accounts. They woke to the turn of the year holidays to find that they couldn't get any money out of their bank accounts. The weeping and wailing and gnashing of teeth was heard all the way to San Francisco. Many of them complained to the Bank; they also tried to see Jack and I think he gave them audience. But in the mean time, the Bank of America got panicky. It got a certified check, and paid off

all of Ayer's bill and all the costs attendant upon it. That relieved that problem--a case that went down in the history of the firm and, to Jack's credit, a great and strategic victory.

I won't waste your time on anecdotes except that I must tell one that happened shortly after Jack got out of the Navy and he was then elected General Counsel of the Telephone Company. It devolved upon him to defend the company in one of the franchise cases around the state. This was against the City and County of San Francisco, but it was tried in Los Angeles and appealed. Jack as General Counsel felt it incumbent upon him to handle the appeal. Well, the preparation for the hearing involved Jack's calling a meeting of Noble Gregory, Les Tupper, who was our counsel in Los Angeles with Marc Mattson's law firm, and me scheduled for the Town House, one of the great hotels of Los Angeles. We met there Saturday and Sunday before the Monday hearing, and went over every possible objection, every possible argument that the other side could make. In the course of that, I wandered around the room and I looked down seven stories to the outdoor swimming pool of the hotel where a comely young lady, whom I noticed earlier drinking at one of the pool-side tables, had gotten into the pool. She was wearing a two-piece suit, not covering very much, and she was swimming up the length of the pool toward me. And, all of a sudden, I cried, "My God, she's swimming out of her suit!" Well, she was indeed swimming out of the lower part of her suit. I was almost thrown out of the window by the rush of the rest of the people, as she came up to the near--and shallow--end of the pool. But Jack was nonchalant and continued to prepare ignoring this diversion. The next day he argued the case and won it.

I won't go on with anecdote after anecdote; our long association with Jack tempts me to do this. But, now we say goodbye to a great lawyer and a great friend.

BILL EDLUND: If Jack were here, he'd tell me "I've given you so much time to get this event completed and if you allow people to keep applauding at each of the speakers, you're not going to make it." So, I'm going to ask you to restrain yourselves for a few moments.

Jack, Allan Littman, Noble Gregory and Jim Kirkham, together tried one of the last major telephone company franchise cases that Francis was talking about. I'm sure if Noble were here, he'd tell me that Jack would have cut my remarks further; he'd remind me about Jack's editorial style on writing; and he'd talk to me about brevity. Homer Angelo, who was one of this firm's lawyers, a young lawyer who came to the firm at the end of World War II, could not be with us today, but he remembered an early assignment from Jack and wrote me about it. He said he was assigned a very tough state regulatory problem, so he wrote a long memorandum and gave it to Jack. Jack looked at it, read it through and he said "Homer, this is a wonderful piece of work but it doesn't begin to meet our needs. We're here to help clients not to write judicial opinions or law review comments." I think Allan may have some recollection about, and say something to us about Jack's writing.

ALLAN LITTMAN: First I would like to say that I think we owe a great deal of appreciation to Bill for being the prime organizer of this convention if you like.

Second, I would like to say that people don't realize perhaps that Jack Sutro's life pretty well spanned the 20th Century. He was born in 1905, he died in 1994; and, as Bill has remarked, his father began to work here 100 years ago. The Sutro family has a connection in history with the firm second to none. Jack, himself, has a place in the hearts of many of us that will never go away. He was, as we all know, a brilliant lawyer and others will pay more tribute to that.

I'm one of the few lawyers in the firm of my age who was not hired by the then one-man employment committee. But, Jack told me later that he advised Jimmy O'Brien that if I didn't work out, he could always fire me.

I do remember trying the San Francisco franchise case in San Francisco with Jack Sutro and with Noble Gregory and with Jim Kirkham, who was nicknamed "Tiger" during that trial. And we had a lawyer on the other side who used to speak about giving you the "sleeves out of his vest," as I recall and that was just about what he did.

Jack Sutro did in that case one of the most remarkable things that I have ever seen. The judge was Judge Traverso, whom Noble nicknamed, "Reverso Traverso" and aptly so. But, Judge Traverso would not hear any of our evidence and so Jack organized an offer of proof which was an "oral" offer of proof in which we had a telephone company witness who testified, I believe, for three days and the judge didn't pay any attention to it. Actually, I think Betty, that was the one case, that Jack's mother ever saw him try. She came out to watch him on one or two occasions and, Betty, you did too. The case was duly lost in the trial court and won on appeal. Of course, it was Jack who was the general and we were merely the officers carrying out his instructions.

A couple of things, I think, ought to be said about Jack. Of course, everybody knows that he was probably born with that cigar in his mouth. Jack was senior partner when I first began to work for him. He displayed to me a remarkable characteristic which I commend to everybody. Jack was not afraid to admit that he might be wrong about something. And it was a startling and wonderful experience for me as a young lawyer to be working on a case with the head of the firm who would tell you you were all wet about something and then the following morning, sometimes very rarely call you up and say, "I think you've got a point and maybe we should do it that way." That showed a largeness of character and openness of intellect which were truly estimable and I think is one of the great things in this firm. By the way, Jack made it clear that you never worked for a lawyer in this firm. You worked with a lawyer no matter how superior he might be you in age or any other attribute.

Jack could also touch one's heart. I remember one occasion I think I wouldn't tell except in this company and on this occasion. Several of us were, as they say, "coming up for partnership." Jack had had a tragedy in the family and he was in the hospital, I think probably for the second time in his life. I received a call from Jack from the hospital asking me not do anything (I don't know what he thought I was going to do) until he got out of the hospital because he thought I might be considering taking employment somewhere else. I thought it was, again, a remarkable thing that the senior partner of the firm would take the trouble to call a young lawyer and have the heart to tell him that.

Jack, as you know, was a stickler for grammar. I don't think anybody ever took a letter into Jack that he didn't change on some occasion. One day, I thought I would catch him out, so I presented to him the same letter we had sent a few months before, it being the same report. Jack took a look at this letter and he started to scribble it up and I said, "But Jack, that's the same letter you approved" and he looked me in the eye (I guess he had done this in the Navy) and he said "I've changed my mind."

When I heard that Jack died, I was very sorry, about his death, but I was also sorry for another reason and that is that I hadn't gone to see him recently. And, I might mention: don't do that. Go and see your friends. But, in a very curious way, I did something which caused me to say goodbye in a rather evocative way. I was moved by his death, so I wrote a little note on an E-mail to the members of my former group and Bill Edlund's and Robbie Westberg's, and I sent it out. Somebody was kind enough to say that perhaps it ought to be sent out generally. I had asked somebody to print it out for me and I put it in my briefcase. The next morning, I got up to breakfast and read it. There was a typographical error in it. I mean it was worse than a typographical error. It said that Jack had been president of the Law Examiners. What it meant to say was he'd been president of the Bar Association of San Francisco. Well, it was Saturday morning; I didn't know what to do. I thought this would be, if Jack's up there watching as I'm sure he is, this would be the crowning insult. So, I found a word processor, I got the word processor to change it and then I found Lonnie Zwerin, who is the head of the publication department and she stopped the presses. We got it changed, it was corrected and, so, I guess, I did say goodbye.

Let me say finally, that to me, Jack, as a lawyer, always epitomized and emphasized the lawyer's duty to be diligent, scholarly, ethical and patriotic. He believed in the highest traditions of the legal profession which, to him, was, and I think to all of us is, a high calling. He was punctilious in matters of grammar no doubt, but that was a small part of his punctiliousness. He was punctiliousness itself when it came to honor and keeping one's word. When this library was dedicated, I read from Longfellow's verse, "In the elder days of art/ builders built with greatest care/ for the Gods are everywhere." And that was the

way Jack felt about the legal profession and how people at Pillsbury Madison & Sutro should conduct themselves. He left us a great example and we should never let him down.

BILL EDLUND: Stan Madden came with us shortly after Jack became a partner in 1935. I think Stan worked as an associate, but as Allan said, he worked with Jack and not for Jack. . . Stan:

STAN MADDEN: When I graduated from law school at Stanford, they advised me that I probably shouldn't come to work for a large law firm. It would be better to go to work for a small firm. But there weren't many jobs, so I wrote to every law firm that I could find and I had had one fortunate thing happen. I don't know whether it had any influence, but I was one of Lucy Stern's boys at Stanford and Lucy was the widow of a rather wealthy man down there and related to Mrs. Rose Sutro. Isn't that correct? [Mrs. Sutro nods affirmatively.] She arranged a dinner and invited Mr. Alfred Sutro and Mrs. Sutro and included me in the group. So, I met Alfred even before I met his son, John.

In the middle of 1935, when I was in Idaho courting my wife, or the woman who became my wife, I got an urgent message to rush back to San Francisco. This suggested that I might be employed at the firm. I rushed back alright and it was a great deal of good fortune to be assigned to Jack Sutro, who I had not met up to that time. Instead of feeling that I was in a large firm (of course I don't know what a large firm was then), I was associated with a young man. He was only about five years older than I and we got along fine. He hauled me around when he had to go visit a client; he'd explain things to me; he sent me out to court. If he had a case, I could accompany him and hold the brief case. That was a really great beginning for someone to learn how to plead and appear in court, and try a case. He did this all very patiently, very friendly and I've always appreciated it very much.

So far as our admiralty practice was concerned, he sort of inherited that from Felix Smith. Since I had taken an admiralty course, he figured that I might as well get my feet wet and that turned out to be very pleasant. There wasn't a great deal of admiralty work in

the firm at that time, but what there was, we shared. If we had to go down and see some witness on the waterfront, he usually sent me. He thought that that would be good experience for me. I encountered some remarkable lawyers. I remember one old duck named "Holyuvoid" who wrote a scathing, un-understandable brief in which one of the headings says, "Who is trying to fool the court." What went on underneath that didn't make any sense either, but it was rather interesting. The brief didn't get very far either.

I worked closely with Jack during the period from 1935 to 1940 when he went into the Navy. After he returned, he went to the telephone company and I ended up still in Standard's maritime fleet which was expanding then and, unfortunately, never got to work very much with him again. But, we stayed on good terms. He was always very friendly and, for reasons unknown to me even now, he used to call me "Butch."

BILL EDLUND: Wally Kaapcke was unable to be with us today. He told me that he met Jack in 1941 when Jack was a naval officer at Treasure Island, but still keeping closely in touch with the firm. Wally recalled his first task with Jack. He was asked to get some provisions in one of the Sutro trusts changed and Wally's problem was this: He researched the matter and he concluded that the probate court no longer had jurisdiction over the trust. The other alternative was to file a lawsuit and name all of the Sutro family as defendants. Neither course was very attractive as far as Wally was concerned. He wasn't going to go back to Jack and say I've got to sue everybody in your family to get this provision changed. Jack's instructions to Wally were to handle it. So being a resourceful lawyer, he put a large number of very serious looking papers together, noticed the matter before Judge Fitzpatrick who was then the probate judge in San Francisco as a continuing probate jurisdiction matter and when he got out before Judge Fitzpatrick, he talked very fast about it. Fitzpatrick kind of raised his eyebrows and began to ask questions about it. But Jack, always planning ahead, had arranged for Felix Smith to be seated out in the spectator rows and Fitzpatrick asked Mr. Smith, "Do you stand behind what this young man is telling me?" And Felix stood up and responded, "Yes, all of the papers had been carefully considered by all of the partners in the firm and by the Sutro family, and they were in full accord." Fitzpatrick promptly signed the order and gave it to Wally. Now, Wally says that he kind of doubts

whether Felix had really read all of those papers, but he was confident that Jack had previously discussed the matter with all the members of the Sutro family.

Frank Roberts joined this firm after World War II as some of the others and like nearly all of us, with Allan's exception, was hired by Jack.

FRANK ROBERTS: I'd like to take just a couple of moments to describe Pillsbury Madison & Sutro at the end of World War II. At the end of 1947, there were nine partners. Felix Smith, the legendary senior partner, had died a few weeks earlier. In January 1, 1948, two partners were added, Fran Marshall and Harry Horrow. The oldest partners, Marshall Madison, the senior partner and Gene Bennett, were 53. The youngest partner was Jack at 43 and Kirk, Frances Kirkham at 44.

When Harry and Fran joined, they were 38 and 40. This is a remarkably short range of ages for any law firm and particularly one that had been in business for some 80 years. All of those partners, with the exception of South Pfund, who left the firm in 1952 to join his major client, all of them continued to be active partners fully involved in firm affairs until they reached age 65 and some of them longer than that. By the time Marshall Madison retired, in around 1961 and Jack took over as senior partner, the partnership had quadrupled and the firm had had the unique experience of having continuity; those same 1948 partners continuing for 25 years amid great change.

In 1948, there were 26 associates. More than half of them joined the firm in 1947 and '48. Of course, they were all hired by Jack Sutro. Jack became the hiring partner as soon as he returned to the firm full time after World War II and he continued for some 15 years. In today's vernacular, the hiring committee consisted of Jack as chairman and sole member. The staff was Mrs. Penn, his secretary and Penny was the first person most of us met at Pillsbury Madison & Sutro. We rarely saw any other partner until we had signed up and reported for duty when Jack escorted us around to introduce us to the rest of the partners.

To be interviewed by Jack for a job at PM&S was a truly unusual experience. It was completely different than one was likely to have at any other law firm. If I may make just a couple of personal references to illustrate that point. I actually interviewed three firms. The first one was in Ann Arbor where I was in law school. I met Herb Clark who preferred to be called Mr. Clark. He was the senior partner of the firm in San Francisco then known as Morrison, Hohfeld, Schumann, Foerster & Clark. He was the ultimate stuffed shirt. I spent an uncomfortable 45 minutes with him listening first to a diatribe about the Morrison firm and then a careful examination of my transcript which had been furnished to him, I suppose, long before and the list of Law Review articles I'd written. There weren't very many and they weren't very good, but they had to do with esoteric issues of labor law. It soon became apparent that Mr. Clark didn't understand anything about it. He then asked me if I'd been elected to some scholastic honorary society and I said, well, the election isn't until next month. He then instructed me, and that's the right verb, to report back to him if I were elected.

My next interview was with Jack Sutro, but let me skip to the third one. It was at the Jones, Day firm in Cleveland and it was the day after New Year's day. Not a really good day to interview. My contact was the senior tax partner, a very, very nice guy. Our families were well acquainted and he was most cordial. But, the routine there was to pass from partner to partner to partner. Every partner was in the building on the day that I was interviewing and you spent about 10 minutes with each of them. The format was exactly the same. After a few perfunctory questions, the partner would look at you with a beady eye and say to you, "Do you want to be a trial lawyer?" It was pretty clear from the outset that the answer had better be yes. Well, after three or four of these, I had the temerity to say, "Why do you all ask the same question?" It was as if I had committed blasphemy. And he snarled, "There's no lawyer that's worth his salt if he isn't a trial lawyer." I later found out that fella had been in court twice and the tax partner had never been in court. I was there two hours.

When I interviewed Jack, it was in New York. I'd taken the train all night, milk train that made every stop, sitting up. I got in New York about 8 o'clock and I met Jack at

10 o'clock at 195 Broadway, the headquarters of AT&T. The office is about as big as the main reading room in our library; it belonged to some assistant associate general counsel of AT&T. I spent 15 minutes with Jack. He was as so many of you know, he was so cordial. He had the ability, in just literally a moment or two, to make a law school interviewee very much at home, very comfortable. We talked a bit about the Navy and answered all questions very forthrightly. The only one of the bunch I interviewed that knew what the salary would be. And then he said, "Well, are you interested in working at Pillsbury Madison & Sutro?" And I said, "Well, yes, but I've got to interview this Jones, Day firm. It's a family connection." "Well," he said, "alright. Let me know after that whether you want to work here." I was pretty lucky. He gave me six weeks. Bill Mussman got 24 hours when he told me of his interview.

I immediately did notify Jack. I had intended to practice in the Mid-West. I ended my interviews. I was captivated. About a month later, I had the opportunity to teach business law the last quarter in undergraduate school and make \$500. But I would have to stop the Law Review bit. And I worried about that. Wrote Jack. I wish I kept his response because the thrust of it was, anybody who would turn down \$500 to write a couple of Law Review articles, we don't want around here. *[Laughter]*

Pillsbury Madison & Sutro during the three decades after World War II was an absolutely marvelous place to practice law. We had a wonderful stable of clients, thanks to the founding partners and to Marshall and Jack and Kirk and their colleagues. They were handed to us on the proverbial silver platter. Within a few weeks a new associate would be engaged in constructive and interesting legal work. It was a bustling place. But in addition to that great client base, it was a firm in which there was a great deal of collegiality. One might say informality. With Jack Sutro around, it couldn't be very formal. I don't want anyone to think, however, that in those days we would have considered wearing blue jeans on Fridays. *[Laughter]*

All of us who were hired by Jack had such faith in him. Faith that we would be treated honestly, comfortable to go to him if any problems arose. I don't suggest that

PM&S was Nirvana. After all, a group of lawyers busy, argumentative, competitive. But it came as close as one can to a law firm Camelot. I think we owe much of that to Jack Sutro. Thank you, Jack.

BILL EDLUND: Frank kind of referred to it in when he discussed the hiring process, and the question that Jack asked him, you know, "would you be interested." Jack never had an offer turned down when he was doing the interviewing because all of us who were interviewed with him, by him, knew the Sutro form of non-offer. It was, well, "if I made you an offer, what would your reaction be." You never got an offer until he got your reaction. *[Laughter]*

Noel Dyer also worked with Jack on many telephone company matters. Noel, you want to come on up to the podium.

NOEL DYER: I suggest that it's the passage of time that brings us to this occasion. Jack had that in generous measure, he used it wisely and well, and his passage now gives us an opportunity to recall him and the people that were with him during that time.

I came to PM&S a year or two before the War. It was then less than one-tenth the size that it is now and had seven partners. Jack was one of them and the youngest of the seven. Among the seven were Felix Smith, Eugene Prince, Marshall Madison and Eugene Bennett. As I recall, I think this is correct, Alfred Sutro was still somewhat active. But he retired in a year or two, and I believe died a few years later when most of us were in the service. And the practice then was very different. For instance, there were no environmental lawyers. Indeed, I don't think there was any environmental law. The practice in such fields as pensions and employee benefits, and civil rights, and toxic torts, was practically unknown. Even our securities lawyers--the few of them that we had in those days; very few--were just about getting underway.

But the firm was busy. It was a busy firm. And Jack, I remember clearly, was one of the more active people in it. When I first knew him, he was counsel for the Golden State

Company, and that was a large dairy company that later became a unit of the McKesson Corporation. That required Jack to have expertise in business law, and he had that. And as Stan Madden has indicated, he also had an interest in maritime law, and handled various admiralty matters with Stan. And, as I recall, they tried seaman's cases under the Jones Act. This required quite a bit of skill as a trial lawyer.

It has been adverted to that Jack was designated as the chief counsel for the telephone company early on. Of course, the telephone company then, and I believe now, was the largest utility in the State of California. That required him to supervise the lawyers that did that work. I'm not going to go into that in any length, but I recall some of the very great cases that Jack supervised at the time. One of them was the license contract case which concerned the content and effect of a license contract between AT&T which owned over 90% of PT&T and PT&T. That case was handled by Eugene Prince--an excellent lawyer and senior member. With Jack, they sheperded that case through to the California Supreme Court, and eventually obtained a favorable decision. I will also briefly mention, the franchise tax cases--not tax cases--but the franchise cases that had to do with the placement of telephone facilities and lines in the roads, highways and streets of California cities. Noble Gregory, who was a revered lawyer in this firm and predeceased Jack, handled that matter. They worked closely on it and again were very successful, obtaining a favorable opinion from the Supreme Court.

There were many, many other matters that would typically arise from the operation of a large regional telephone company that this firm handled and that Jack supervised. They involve, for instance, conflict between utilities, service problems, property problems, directory cases, any number of things like that. Jack supervised all of them. And as I recall, there were many of our lawyers, George Sears, Jack Bates and Dick Daugherty, that got their training on telephone company matters supervised by Jack. We also--and this was important--had referred to us utility matters which were very important to the telephone company at that time. Francis Marshall--and I should make special mention of him--would handle the rate matters for the telephone companies. These were very large cases that involved enormous sums of money and were vital to the financial health of the company. I

handled some of the complaint cases before the Public Utilities Commission and before the Federal Communications Commission. One group of cases was the foreign attachment cases. In those days, the telephone company had a tariff which stated that the telephone instrument and anything attached to that instrument had to be owned and supplied by the company. That meant that all of the inventors and developers of answering devices and dialers, and Lord knows what other connecting instruments, were precluded from hanging anything on the telephone system. We tried many of those cases. They were bitterly contested by some of the major firms. But happily in California, we were able to prevail. Later, and in Texas I believe, in a different Bell system, the U.S. Court of Appeals held the tariff unreasonable. And that's the reason today we have telephone instruments and answering devices, whatever, sold through department stores and other outlets.

Jack departed from the firm early on to join the Navy. And I'm not privy to his service in the Navy. But I think that we can glean his stature and proficiency as an officer when we reflect that the Navy designated him as one of its representatives, and I believe an aide to the President at the historic United Nations Conference at San Francisco, where the United Nations Charter was signed and adopted. Jack returned to the firm in 1945, and assumed the management of the firm with Marshall Madison. In retrospect, I think it fair to say that Jack and Marshall are indeed major architects of the firm as we now know it.

Jack's competence as has been related here, of course, placed in his hands the very important matters that we've talked about. Later on, and through the fact that he was a humanitarian as well as a competent lawyer, various awards came to him. One of them was the St. Thomas More award which is granted annually to a lawyer of stature who has evinced interest in and contributed to the common good. Thomas More was the chancellor of England who was worldwide and historically renowned as the man for all seasons. Jack Sutro as a bar official and selector of federal judges, as a naval officer, and as a rancher, and a solid family man, was indeed an appropriate designee of an award given in the name of a man for all seasons.

Finally may I say that Jack was always himself. There was nothing of the enigma in him and what you saw you got. He had a talent for the direct and forceful statement, and I think that reflects his strong mind and character. So we say goodbye to our partner and friend. We have much good cause to cherish his memory.

BILL EDLUND: As Noel noted, Jack became senior partner in about 1960. He continued the kind of organization that had previously existed in the firm. He and Gene Prince distributed an outline on organization that Felix Smith had written. That outline noted that other firms have sometimes made a fetish of organization. "Jurisdictional jealousies develop. Each lawyer becomes careful not to infringe on another's department. The firm had avoided that spirit," and, in Felix's words, we "must take care to continue in that line. It is important that at no time should a client be told by any member that he cannot give legal advice or service because of someone else's department."

One year after Jack became our managing partner, George Sears became a partner in the firm. Several years later, George followed in Jack's footsteps as the managing partner.

GEORGE SEARS: I am among those in the firm who Jack did hire, and hence among those who in that very basic sense owe their professional careers to him.

From my early days at the firm, Jack was generous, offering opportunities to me to make something of myself. I cut my litigation teeth on PT&T cable damage cases and Western Union message cases. Later on, Jack gave me a whole spectrum of work for PT&T, running an antitrust education program, trying PUC cases in the foreign attachment area, and following on Noel's remarks, I must say that it's very hard to believe in this day and age that there was a time when the Bell system would not permit the attachment of any equipment manufactured by any other company. There were a variety as well of other PUC proceedings and other matters. Jack also arranged for me to attend some meetings of the PT&T board of directors, for me, very happily, to accompany him to a number of Bell system legal conferences. They're always great occasions. I owe Jack an unrepayable professional debt.

I am deferring to others comment on the very long list of Jack's professional activities, achievements and awards. They are a great tribute to his abilities and they contribute greatly to the national stature of the firm.

I will observe that--along with all his other activities as has been noted here--Jack ran the firm. As a later firm chairman dealing with the management committee, executive committee, compensation committee and other committees, I want to emphasize my admiration for Jack's one-man management style.

I also want to observe that Jack was a true gentlemen and wonderful host. I think that one mark of the good host is the ability to make his guests--and particularly new guests--feel at ease. My wife Mary Ann and I were first invited to dinner at the Sutro house around about the time when I was being admitted to the partnership. We were young enough to be nervous at that prospect. We made it to the dinner table and the entrée--which was duck--was served. Mary Ann said to Jack that she could use some advice on how best to deal with the bird. And Jack said, "No problem. You just watch me, and do what I do." With that, Jack picked up his knife and fork and flipped the duck into his lap. *[Laughter]* After that, we were always comfortable at a Sutro dinner party. *[More laughter]*

Jack Sutro was a great man who help build a great law firm. We'll not see his like again.

BILL EDLUND: Thanks, George. Jack supported the Bench. He was a leader at and of the Bar. He was adaptable to and he recognized fundamental sea changes in the law. He was an early supporter of the Lawyers' Committee on Civil Rights. He understood the role that a major law firm such as ours should and could play in the civil rights movement. The Executive Director of the Bar Association of San Francisco has written to us about Jack's leadership at the Bar, his wisdom, his good judgment, but she particularly recalls his irascible irreverence. She remembers the first time he met with Tanya--the first time Jack met with Tanya Nieman, who is Director of the Volunteer Legal Service Program. Some of you know Tanya's attire and her inevitable wearing of a bow tie. Jack looked at Tanya's

bow tie at some Presidents' Dinner, and he said, without hesitation, without fear of contradiction, his absolutely certain opinion that she could not tie that tie without a mirror. And, of course, she took it off and promptly did. *[Laughter]*

Toni Rembe was in the partnership class of this firm the last year that Jack was senior partner. She may be able to tell us some similar experience as our first woman partner.

TONI REMBE: Jack was not exactly someone we would refer to in today's language as politically correct. *[Laughter]* But somehow he understood many, many years ago how it must feel to be a minority in a group of lawyers -- in my case, the sole female, a minority of one, among sixty partners.

I remember very well being told when I was an associate and we were waiting to see whether or not we would make partner, that the senior partner, the chairman called every successful candidate. So you can imagine how excited I was when my secretary came running in to an adjoining office, saying, "Come back to your office quickly, Mr. Sutro's on the phone." I picked up the receiver and I heard, "Rembe get up to my office." I felt immediately included. I don't know if Bob Sullivan's here, he was in my partnership class, but he may remember that day in December of 1970 when Jack gathered the class together and gave us a little spiel on the firm. He welcomed us, he told us a bit of what was expected of us, and as we were ready to go, Jack said, "And that goes for you too, Rembe." *[Laughter]*

So, another thing, just remembering the first partnership luncheon meeting I attended. I had heard--whether this is true or not--that the language at these partnership lunches was something like locker room language. I was prepared to be one of the boys, even though I was a little nervous about how I was going to take it. Jack somehow sensed this and took it upon himself to police the language at the first lunch. So, he would gruffly interrupt every offender or even potential offender with, "Watch it, there's a lady present." *[Laughter]*

Take all the current emphasis on, and all the current programs involving, diversity training and sexual harassment--I think basically, what's at the core of these programs is thoughtfulness and respect for others. Jack, intuitively, knew and practiced these things years ago. He was ahead of his time. And he always made me feel comfortable and included at the firm.

BILL EDLUND: Jack, as I think everybody here knows, was a sportsman. Bud Dapello remembers an occasion when Jack and Mrs. Sutro, Betty, were attending one of the Giants baseball night games at the old Seal Stadium. The firm had a box and it was usually filled with people from the firm. This was a rather cold night. The Giants were losing. It was in the late innings. The shortstop for the Giants dropped the ball. As Bud tells it, Jack's large booming voice said, "I could have done better than that." And then a quiet voice next to him said, "I don't think so, John." *[Laughter]* And Jack's response was, "You're right, Ma."

Jack had many good friends on the staff of the firm-- Lucy McDonald's here today, Madge Lazore and Bud Dapello who was unable to be here. Jack was particularly fortunate in the last years to have Dorothy Towne helping him in the last several years. Dorothy.

DOROTHY TOWNE: Please bear with me. Public speaking is not one of my attributes. I returned to the firm eleven years ago. The first day back, Mrs. Penn, Mr. Sutro's previous secretary, told me that she was retiring and would I like to take her place. I said, "No way." *[Laughter]* Because I had been told that Mr. Sutro started dictating before you sat down and you were still writing notes walking out the door. After about two weeks of floating, I was called and was told to report to Mr. Sutro, because Mrs. Penn was out that day. Donna Serna, the coordinator, said, "Don't be nervous, he is great." She introduced me to Mr. Sutro and left his office. I thought I had better be up-front, so I told him that I had not taken shorthand in thirty-three years, and that I was Mr. Bates' first secretary. He sat up straight, and said, "You don't look that old." *[Laughter]*

About two days after that, I received a call from the Director of Personnel, and she said, "Mr. Sutro likes Dorothy." I thought it over for a day or two and decided I would accept the assignment. Mrs. Penn called me when she learned of my decision, and asked if I had time to come to Mr. Sutro's office and talk with him. As I was walking down the hall on the seventh floor, I saw Mr. Sutro standing in the middle of the hall waiting for me instead of waiting in his office. When we came face-to-face, he said, "Are you going to help me?" I said I would do my best, and we shook hands.

One day I mistakenly made a remark in reference to working for him. This has been said before, I know. And he immediately let me know that I did not work for him, I worked with him. That statement told me a lot about the man, and I think it will tell you something also. He had great respect for secretaries and the staff. At times we had little differences and Tempe Brown, who occupied the cubicle right outside his door, referred to us as the Bickersons. *[Laughter]* Mr. Sutro always greeted Tempe with, "Hello, handsome." And she greeted him with, "Hello, beautiful."

I don't think a day went by that we did not have something to chuckle about. One day he saw my initials on something and asked what that meant. I said those are my initials. So he immediately started calling me Dit-Dot. Of course, others in our area started referring to me as Dit-Dot also, and they still do. Although he was not in the office for the last year and a half, I saw him once a week at his home. Out of something sad, comes something happy. I have made a new friend, a most wonderful lady, Mrs. Sutro. Mr. Sutro was always a gentleman and was very considerate. I will always look back and reflect that I consider myself privileged to have had the opportunity to work with Mr. Sutro.

[Applause]

BILL EDLUND: Jack was very proud of the firm, and he was very proud of his partners. He had portraits, picture portraits of many of the partners on his walls in his office. One day Francis Kirkham thought it would be very funny to get a picture of Jack and pencil in a beard on the picture, then without telling him, hang it up on the wall with the rest of the partners. Dapello got a picture. Hedy Wilson, who ran the duplicating then, put a beard on

him, they framed the picture and hung it with the other portraits. Jack didn't notice it. Weeks went by, and it was driving Kirk and Dapello crazy. He finally noticed the picture of this stranger on the wall, and he thought it was pretty funny. He took it to the ranch and hung it in the barn so the animals could roar at the artistry that was shown there. It may still be there, I'm not sure. [Mrs. Sutro nods affirmatively.]

Francis was going to tell us his remembrances but Francis is ill today. And Jim as his surrogate has his notes, and Kirk would have very much liked to have been with us today. But, Jim, perhaps you can fill in for your Dad.

JAMES KIRKHAM: I have the honor of this podium solely as a surrogate for my father. My heart is also full with many memories. I am both a colleague of Jack and a friend of the family. Thus, it is with extraordinary self-discipline that I limit my remarks here to stating what my father would have said had he been able to be here. I should add for those of you who never worked with Francis Kirkham, that among his many, extraordinary qualities, he had an astounding memory. His custom was to write out entire court arguments, memorize them, and then without any notes, deliver them verbatim as if they were spontaneously from his heart. I can assure you that, if he could have been here today, he would have stood up here without any notes and spontaneously from his heart--and it would be from his heart--say exactly these words. So, the words I will speak do have a special imprimatur. These are my dad's notes:

The day Ellis and I met Jack and Betty Sutro is as fresh in my mind this moment as when it happened nearly sixty years ago.

As the end of my clerkship with Chief Justice Hughes approached, Ellis and I decided to make a tour of the country, to see if by any chance we might discover an opportunity to practice law that seemed more favorable than the one that had been offered me by the Cravath firm in New York. After numerous stops, we arrived in San Francisco in July of 1935.

The next morning--a Saturday--I presented myself to the firm's receptionist on the nineteenth floor with a letter of introduction to Mr. Oscar Sutro. The receptionist told me that Mr. Oscar had died just a few days before my arrival. That his brother, Mr. Alfred, no longer came to the office on Saturdays during the summer months, when he and his family were living in their country home in Atherton, but that Mr. Alfred's son, John, a new member of the firm, was in, and she felt sure would be glad to see me.

There followed the most important event of my life.

Jack not only interviewed me courteously at the office, but he and Betty met Ellis and me later in the afternoon, took us for a tour of the city, entertained us at their home that evening, and persuaded me to wait over until Monday morning to meet his father.

What followed, you all know. New York left our thoughts. San Francisco became our home. And with it, more than the practice of law, in addition a friendship beyond price.

Jack, although my junior in age by nearly a year, was always my senior in the firm. And for that, I am truly grateful. His hand at the helm was always firm and steady. His character as solid as the granite Sierra he and Betty and Ellis and I use^A to visit together. His leadership, a constant spur to excellence and integrity.

And above all, his constant, never wavering love for his adored Betty and their wonderful family was an inspiration to me throughout our many years together, as it was also to all those who are privileged to share their lives and friendship.

[Speaker is beginning to cry] You know, it's bloody damn silly, but I share my father's sentimentality. He probably would have done the same damn thing.

Jack Sutro was a giant in a great era of the legal profession.

God rest him!

And God bless and comfort his beautiful and lovely Betty and their wonderful family. *[Applause]*

BILL EDLUND: Because of the great importance to Jack of the ranch, of his rodeo riding activities and his sports activities, I have asked Jack Bates who succeeded him as manager to speak last. If you would, Jack.

JACK BATES: I have the very unique experience of not being hired by Jack Sutro. I don't know how it ever happened, but I was hired by Marshall Madison. I was very anxious to be a trial lawyer. I'd always been fascinated with the courts and all the different cases, even in high school. I audited jury trials. When I got on the road, as a roadman which was customary in those days--you did that for six months or a year--I was able to try a couple of small cases on my own. When that was finished, Jack Sutro got me involved in defending personal injury cases for the telephone company. Then Railway Express, they had a lot of trucks running around the area. They were both self-insured. Through the kindness of Jack Sutro, I became familiar with every major intersection in Northern California. *[Laughter]*

Fortunately, Del Fuller thought he might risk some commercial litigation with me. And I had some success. Then Francis Kirkham gave me a couple of antitrust matters. Then I got into defending Ford and General Motors, and had some success. So, Sutro decided he could risk a commercial case with me. So I started doing a few of those for Jack. One in particular stands out in my mind, having to do with the motion picture antitrust field, and Joe Alioto was on the other side. We thought we had some problems with the litigation and fortunately, we were able to enter into a rather reasonable settlement, I thought, with Joe Alioto. Both Jack Sutro and I were involved. Shortly after that, I became involved in a major piece of litigation in Wyoming defending Utah International,

then Utah Construction Company, in a major class action brought by the minority shareholders of Lucky Mac contending they didn't get enough in the exchange when Utah took over Lucky Mac. It had really engaged me tremendously in Utah and in Wyoming, and we had been in trial for some time but were in recess. I got back in the office, and Allan Littman said, "Jack, you're going to have to testify tomorrow." I said, "Now, wait a minute, wait a minute, Allan, I just got back from this case I'm thoroughly enmeshed in and really involved in." And he said, "Well, don't worry about it, Jack, you'll be all right. It's not very much," he said, "Joe Alioto contends there was never a settlement of that case, and so I've asked for a separate trial on the settlement." It was a jury trial, too. So he went over a few particulars which might come out in my examination. Off I went and--the other witness that Joe Alioto called as an adverse witness was Jack Sutro. Of course, Jack had been busy preparing himself for testimony in that case for some days. And he took the stand and testified. And I thought that Jack did an incredible job--very careful, very factual. Then Joe called me to the stand. I thought I handled myself fairly well--maybe a little slow on recall--but I thought I survived. We were coming back in the taxi later after the session of court, and Jack said--I was with Allan and Jack--and Jack said, "I think he got out of you just what he wanted." *[Laughter]* Fortunately, Allan Littman won the case, despite my testimony.

But Jack and I had a lot of experience together and a lot of work together. We had some marvelous sessions at dominos with Frank Roberts, Jim Michael, Frances Kirkham and others. Jack loved dominos. There was an awful lot of talking at the domino table. I don't know whether many of you played dominos with Jack Sutro. But it was an exciting, noisy

affair, and we thoroughly enjoyed it. I remember when I got on the board of the Bar Association, Jack used to get very upset with me. He said, "What are you doing wasting your time at that Bar Association? You ought to be down here playing dominos."

[Laughter]

Shortly after that, somehow or another he got involved, and the next thing I knew, he was president. Then before very long, he seemed to be president of everything. He had certainly a marvelous career and was a great credit to the Bar of San Francisco and the legal community at large. It's been said several times, Jack Sutro was a real man of the ages, a man for all seasons.

But now let me tell you a little bit about some of the other things about Jack Sutro that haven't been mentioned. He was a team roper. He and his foreman, Cliff, did a lot of team roping. We'd take the family up to Glenbrook in the summers for a week or two. Much to my amazement, there he was, at Glenbrook, team roping with Cliff. Betty was careful to try to keep the doors and windows closed when team roping was going on at the ranch because they kicked up so much dust. Jack got to be pretty good at it, and he was even team roping all over, and he became a member of the Rodeo Cowboys Association of America. He thought that was one of the greatest things in the world. I remember how happy he was at that. He had himself a buckle and he just loved the West, he loved the riding, and he loved all the excitement of it. They were having a contest up at Atlas Peak-- up at the Atlas Peak Ranch one day, and by gosh, the inevitable happened, he broke his leg. But that didn't stop him from dove hunting. He was out there for the opening of dove

season, broken leg and all. Unfortunately, he got pneumonia. That slowed him down a little bit, but not much.

You sort of have to be born into duck hunting, and I was one of those young fellows that was. My father was a hunter, great sportsman, fisherman and all that. It's an exciting thing. It's fun to be with the dogs and out in the early morning light. I really do enjoy the thrill of duck hunting. I was in this club at Black Point Cut Off but they flooded it out, so we were out of business. One thing led to another, and Jack asked me to come up to Marysville with him to hunt at his club--the old Heave-Ho Club. I did, and I had never seen so many ducks in my life. God, it was exciting. It really was. The only trouble was, I was shooting with Jack Sutro. You have to--it's a terrible experience--it really is--because he's got that cigar going all the time, he had a dog named Devil, he had a whistle, and then he had these duck callers that he'd use, you know, to try to call the ducks in. And he said, "Bato, here they come, Jack. Now, here they come. Here they come. Now, get down. Get down. For God's sake, get down." I'd get down and all of sudden, boom, boom, boom.

[Laughter]

So anyway, Jack got me involved in his club, the Heave-Ho Gun Club. Then they sold out, and we didn't know what we were going to do. By this time, I induced Nancy to do a little shooting. Gosh, oh boy, she just hated it. On one occasion, I'd say, "Come on, Nancy. Come on over to this blind, it's much better over here. Come on. Come on." All of a sudden she was down crouched on the levee. Well finally she finished what she was doing, and I was busy trying to get a duck or two. She finally got over where I was and

she had this great big Mallard, and I said, "Well, Nancy, what were you doing?" She said, "I was trying to drown the Mallard." *[Laughter]* Poor Nancy, she loved to eat ducks, but she didn't like the killing process.

But anyway, one thing led to another, and so we were out of business at the Heave-Ho. Betty and Jack and Nancy and I got our own little plot up there, and stayed at the Marysville Hotel, played a little bridge together. And I'll never forget, Jack Sutro bid his bridge hand and he never sorted it. He never sorted it. I couldn't believe it. He never made a mistake.

Well I could go on at some length about our old friend Jack Sutro. He was a great man and a great lawyer. I had marvelous experiences with him. And God bless you, Jack, we have wonderful memories about you. We're sure going to miss you. Good luck, Betty, and Jack and the rest of the family. Thank you.

BILL EDLUND: There was an article written about ten years ago titled, "The Sutro Charm." In it the author said that Jack may not be the nation's most powerful lawyer, or its most famous lawyer, or its oldest practicing lawyer, but he probably was among the top on all three counts. That author quotes Jack at the time. "I'm going to continue to practice as long as I am mentally and physically capable. Hell, I've never given any thought to quitting." And he never did.

He was a leader that grew with this firm; with the city. His wisdom, ability, judgment, and legal skills have served us very well in the firm, have served this city, have served this state, and have served the country. He was always, as you've heard from the others, a very private, a very gentle and a very caring person. One of our former partners wrote to me and he was reminded of a tribute by Mark Anthony. I thought it was apt.

"His life was gentle, and the elements
so mixed in him, that Nature might stand up and
say to all the world, 'this was a man!'"

Neal, would you close:

NEAL McNAMARA: Bill asked me to bring closure to this wonderful celebration, but first I have to share a few of my own personal anecdotes.

I'm reminded of them by some of the earlier comments. I first met Jack in February of 1959, when I came out for my interview. I spent a half day at Brobeck, a half day at McCutcheon, a half day at Orrick, and a half day at a firm then called Lillick, Geary, Wheat, Adams & Charles where I met Ira Lillick. In any event, I had my visit with Jack. And I came in the elevator, went up to his office, Mrs. Penn ushered me in, and at the same time, she ushered in Vito, the long-time shoe shine man in the Chevron building. I can tell you that the duration of my interview equaled the shoe shine that Vito gave Jack.

[Laughter]

All we talked about was the Navy. I was from a Navy family. He found out that I had spent five years in the Navy during the Korean War, and we talked about that in particular. We didn't talk about salary or what I wanted to do. A few weeks later, I received the usual Sutro letter. I feel much better hearing Frank and others talk about this because, frankly, for thirty-five years I had never been really sure whether I should be here. *[Laughter]* The ambiguous closing sentence to the effect--and I just looked at it the other day; I have it in my files--if you are interested in us, we might be interested in you. *[Laughter]* So I took it to the Dean of the law school. I said, "What is this?" *[Laughter]* The Dean said, "What do you want it to be?" I said, "I want it to be an offer." He said, "Accept it." And I did. And it worked. And I'm still here.

I arrived in June and started doing a few things for Mr. Sutro. Of course the first day, he said, "Just call me Jack." Well I came from that Navy family and it was very, very difficult for me to call him Jack. So for three or four times I said, "Mr. Sutro" or "Yes, sir," "No, sir," and he finally yelled at me and said, "Don't do that anymore. Just call me Jack." He scared me enough that I then called him Jack.

Rolling forward to December of 1966, I was in Honolulu in December of 1966 visiting my in-laws. Six o'clock in the morning, the phone rang, my mother-in-law answered, woke me up and said, "Mr. Sutro is on the phone." I picked up the phone and he said, "Come in to my office." *[Laughter]* I said, "But Mr. Sutro"--I said, "But Jack"--I'm sure I said--"But Jack, I'm in Honolulu." "What the hell are you doing there?" *[Laughter]* "See me as soon as you get back." Bang. Down went the phone. *[Laughter]* Well I had a

suspicion what the call was about, so I think I called Frank and asked "What's going on." He said, "Well you've been admitted to the firm." That worked too.

One last anecdote. No mention has been made of Jack Sutro's poker prowess. Bill Edlund, Bruce Mann and I for many, many years walked up the hill to the Family with Jack. I don't know how many noons I walked up that hill with Jack. Jack was an outstanding poker player. Up at the Family in the poker group, we kept track of our wins and losses. We had a little sweepstakes at the end of the year. I think Jack was on the winner's list frequently when I lost an awful lot of money to him, until I found out what his signal was. Even the best poker players give off a signal. I found out that if Jack plopped his hands down on the table, took three puffs on his cigar, it was time to get the hell out of the hand. *[Laughter]* I never lost to him again. *[Laughter]*

Thank you very much, Mrs. Sutro, and your family, for joining with us today. This has been indeed a landmark celebration. It's the end of an era, as Bill said. I'm not exactly sure how to bring closure to this memorial, other than to ask that each of you join me in a few moments of silent reflection. We all have our favorite memories of Jack. I do. I know each and every person in this room does. So, if you will, shall we just think back on those good times with Jack. *[Silence]*

I thank you all for coming, and we miss you Jack.