

California State Archives  
State Government Oral History Program

Oral History Interview

with

**HON. GERALD J. O'GARA**

California State Senator, 1947 - 1950, 1951 - 1954

July 9 and August 5, 1987  
San Francisco, California

By Julie Shearer  
Regional Oral History Office  
The Bancroft Library  
University of California, Berkeley

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None.

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## PREFACE

On September 25, 1985, Governor George Deukmejian signed into law A.B. 2104 (Chapter 965 of the Statutes of 1985). This legislation established, under the administration of the California State Archives, a State Government Oral History Program "to provide through the use of oral history a continuing documentation of state policy development as reflected in California's legislative and executive history."

The following interview is one of a series of oral histories undertaken for inclusion in the state program. These interviews offer insights into the actual workings of both the legislative and executive processes and policy mechanisms. They also offer an increased understanding of the men and women who create legislation and implement state policy. Further, they provide an overview of issue development in California state government and of how both the legislative and executive branches of government deal with issues and problems facing the state.

Interviewees are chosen primarily on the basis of their contributions to and influence on the policy process of the state of California. They include members of the legislative and executive branches of the state government as well as legislative staff, advocates, members of the media, and other people who played significant roles in specific issue areas of major and continuing importance to California.

By authorizing the California State Archives to work cooperatively with oral history units at California colleges and universities to conduct interviews, this program is structured to take advantage of the resources and expertise in oral history available through California's several institutionally based programs.

Participating as cooperating institutions in the State Government Oral History Program are:

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The establishment of the California State Archives State Government Oral History Program marks one of the most significant commitments made by any state toward the preservation and documentation of its governmental history. It supplements the often fragmentary historical written record by adding an organized primary source, enriching the historical information available on given topics and allowing for more thorough historical analysis. As such, the program, through the preservation and publication of interviews such as the one which follows, will be of lasting value to current and future generations of scholars, citizens, and leaders.

John F. Burns  
State Archivist

July 27, 1988

This interview is printed on acid-free paper.



GERALD J. O'GARA

## TABLE OF CONTENTS

INTERVIEW HISTORY	i
BIOGRAPHICAL SUMMARY	ii
I     SAN FRANCISCO BACKGROUND	1
[Session 1, July 9, 1987, Tape 1, Side A]	1
Family	1
Law Practice	5
Political Activities	5
Marriage to Mary Orme Johnson	7
II    STATE SENATE RACE OF 1946	8
[Tape 1, Side B]	10
Impressions of the Legislature	11
Housing and Highway Issues	12
III   SECOND SENATE TERM--1951 TO 1954	15
Creation of the Bay Area Rapid Transit [BART] Commission	16
Developing Support for Committee Recommendations	18
IV    POSTCARD FRAUD INCIDENT OF 1962	23
[Session 2, August 5, 1988, Tape 2, Side A]	23
Background	23
How the Fraud was Discovered	24
Grounds for Temporary Restraining Order	28
Distinguishing Real from Fake Political Organizations	29
[Tape 2, Side B]	31
Thoughts on Election Campaign Practices Today	32

## INTERVIEW HISTORY

### Interviewer-Editor

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### Interview Time and Place\*

July 9, 1987: Home of Judge and Mrs. Gerald J. O'Gara,  
San Francisco, California, session of two hours  
(one and one-half hours recorded).

August 5, 1987: Home of Judge and Mrs. Gerald J. O'Gara,  
San Francisco, California, session of two hours  
(one hour recorded).

\*Judge O'Gara asked that Mrs. O'Gara be present to assist his recall. The judge also aided his recollection with extensive quotations from his earlier writings on election fraud in the 1962 California governor's race and on Bay Area Rapid Transit issues. These are noted in the transcript.

### Editing:

Shearer checked the verbatim manuscript of the interview against the original tape recordings, edited for punctuation, paragraphing, and spelling, and verified proper names. Insertions by the editor are bracketed. The interviewer also prepared the introductory materials.

Judge O'Gara reviewed the transcript at considerable length. He was sent another copy of the transcript in June of 1988. He relayed his written approval of the transcript as edited.

### Papers:

Judge O'Gara did not keep his legislative files.

### Tapes and Interview Records:

The original tape recordings of the interviews are in the university archives at the University of California at Berkeley along with the records relating to the interview. Master tapes are preserved at the California State Archives in Sacramento.

## BIOGRAPHICAL SUMMARY

Gerald J. O'Gara was born on October 11, 1902, in San Francisco, the first son and second child in what would be a family of nine children. His father, John O'Gara, was a prominent attorney and founder of the firm O'Gara and O'Gara. Both he and his wife, Antoinette Tobin, were native Californians. Young Gerald attended local schools and graduated from the University of San Francisco with an A.B. in 1923. He obtained a law degree in 1926 from Hastings College of the Law (University of California) and that same year entered the law office of his father, where he was been a practicing attorney for some forty years.

For nine years, he was counsel for the Better Business Bureau in San Francisco, carrying on a campaign to rid the city of rackets and fraudulent operators. He made regular radio broadcasts on the subject of what has come to be known as consumer fraud, successfully acting as special prosecutor in several hundred cases. He was elected to the San Francisco Board of Supervisors in 1941 and served nearly a year before taking a leave of absence to serve overseas in the U.S. Navy.

Returning to San Francisco in 1946, he decided to run for a seat in the California State Senate. Cross-filing still in effect, O'Gara garnered the most votes in both primaries to win the election. He experienced the postwar housing shortage firsthand when he and his bride, Mary Orme Johnson of Honolulu, tried to find a place to live following their marriage in 1947. Not surprisingly, his legislative efforts in the senate addressed a concern for housing and redevelopment. He also was the author of the first Bay Area Rapid Transit Act and a bill supporting the \$2 million Hastings Law College building in San Francisco.

He was reelected to office in 1950 and served until 1954 when he resigned and resumed private practice of the law. In 1966, he was appointed a judge of the municipal court in San Francisco by Governor Edmund G. Brown and served sixteen years on the bench until he retired in 1982. During and after that time, he has remained fully engaged in the life of his community through membership in fraternal and social organizations and civic and professional activities. In 1972, he was named "Man of the Year" by the Hastings College of the Law Alumni.



[Session 1, July 9, 1987]

[Begin Tape 1, Side A]

I. SAN FRANCISCO BACKGROUND

SHEARER: I'm going to do one more sound check, to be sure that my voice is registering, and yours is. So, I think I'll begin by asking you when you were born.

O'GARA: I was born on October 11, 1902.

SHEARER: Oh, 1902. That was my guess, because I remember you said you were the youngest senator when you took office at 44, is that right?

O'GARA: I was.

SHEARER: Now we'll just go back and do . . .

[Interruption]

[Mrs. O'Gara comments out of range of the lapel mike]

Family

SHEARER: I've noticed that we're not picking up what we should have been.

O'GARA: I'm not speaking loud enough?

SHEARER: No, it's something on the tape recorder. Would you mind repeating your parents' names for me?

O'GARA: My father's name was John O'Gara. My mother's maiden name was Antoinette Tobin.

SHEARER: You were just telling me . . .

[Mrs. O'Gara comments]

Oh! They were both born in California?

O'GARA: That's right.

SHEARER: Mrs. O'Gara, who is present to verify names and dates and supply other information that only a devoted spouse can

supply, has just said that Judge O'Gara's parents are both native Californians. I had asked you about your schooling, and you told me that you attended St. Ignatius High School?

O'GARA: Well, first I went to St. Bridgid Grammar School. I started rather late, and skipped grades. I had three aunts who were schoolteachers, and one or two of them would give me special instruction after school, which helped a great deal in skipping grades.

SHEARER: Mrs. O'Gara points out that you graduated from high school at fifteen.

O'GARA: Yes.

SHEARER: Did you then enter the University of San Francisco at that early age?

O'GARA: I worked for a year; yes, I worked at what was then the Savings Union Bank.

SHEARER: All right. Before we go any further, I want to just double-check the sound, and see that we're picking up the . . .

[Interruption]

. . . Perfect. Now, we're cooking.

You were telling me a little bit about your father's activities. You said that he was an assistant district attorney.

O'GARA: My father went to Santa Clara College (it was a college then). And to get through, he worked on the railroad, as his father did. He was a railroad agent. And then he was in private practice, and a while later he became an assistant district attorney, at the time of the graft prosecutions.

SHEARER: And he was the chief prosecutor?

O'GARA: Yes, he was.

SHEARER: And the graft . . .

O'GARA: Or rather, he was the special prosecutor. Langdon, I think, [was district attorney]. My father [was the] man who carried the heaviest load and handled the most important cases.

SHEARER: And he was the one who prosecuted successfully Abe Ruef?

O'GARA: That's right.

SHEARER: This was recounted in the book called Magnificent Scoundrel<sup>1</sup> you said earlier?

O'GARA: Yes.

SHEARER: I gather that your family was quite well known in San Francisco. I think Mrs. O'Gara pointed out that your father was also a teacher at the University of San Francisco.

O'GARA: He taught more at night at the University of San Francisco then at the St. Ignatius College Law School.

SHEARER: This was while he was practicing [law] during the day?

O'GARA: Yes.

SHEARER: And you have eight brothers and sisters?

O'GARA: That's right.

SHEARER: I'm going to just take note here of what you said earlier, that there were nine children, and there are--the oldest girl--

O'GARA: Two sets of twins.

SHEARER: Well, maybe actually it's safer to just have you tell me again, because my memory is not as good as yours.

O'GARA: You mean the children again?

SHEARER: Yes, the children's names.

O'GARA: All right. My oldest sister is Miriam. She is Sister Miriam of the Holy Family Convent, San Francisco, retired nun. I am the next one in line, and after that my brother James O'Gara. He is an attorney. Following James came twins, Edward and Paul. Edward was a dentist; he died. Paul is a lawyer, yes.

Then my sister Jane is next. She is a social worker. And then I have two brothers: one of them is a doctor, Dr. Louis O'Gara, and Charles O'Gara is a lawyer.

SHEARER: Well, it sounds like your mother had a very great deal to do.

O'GARA: She certainly did.

SHEARER: And she did have some household help, I gather?

O'GARA: Oh, yes. Almost. . . . Well, I would say, practically all the time that the family was growing up.

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1. Lately Thomas, A Debonair Scoundrel: An Episode in the Moral History of San Francisco (New York: Holt, Rinehart & Winston, 1962).

SHEARER: Where do you come in this procession of children?

O'GARA: I'm the eldest son, the second to my sister Miriam, in the line.

SHEARER: Well, I wanted to pay special note to the number of children, and the fact that they all came to occupy positions in San Francisco, because I wanted to mention this in regard to your first campaign for senate in 1946, in connection with cross-filing. But, before we get there, I'd like to know what happened after you graduated college. That is, after you graduated from the University of San Francisco.

O'GARA: I went to Hastings College of Law, and I worked part-time at the San Francisco Chronicle.

SHEARER: I see. Did you have another job, too; editorial kind of work?

O'GARA: My brother [James] and I ran the Olympic Club magazine.

SHEARER: What position did you occupy there?

O'GARA: Business manager, by name. That's the title I had. But actually, my brother and I did the editorial work, practically all of it. The editor was an older man, quite green.

My father went to Santa Clara College with William Humphrey, who was president of the Olympic Club and also president of what was then the Associated Oil Company. He was kind enough to give me a job running the Olympic Club magazine.

SHEARER: Was golf one of the responsibilities, golf reporting? Was that something that you did?

O'GARA: That's afterwards, [when] I worked for the Chronicle. First, I worked for the Examiner, and then the Chronicle.

SHEARER: And this was all at night, or out of school hours, while you were going to school?

O'GARA: Yes.

SHEARER: That seems to be a family habit.

O'GARA: Well, we had to make ends meet. We wanted to be lawyers, or doctors, dentists, as the case may be.

SHEARER: Did your father make it pretty clear to you that that was what was expected, that a profession was desirable? Maybe even necessary for his children?

O'GARA: He never pushed really, or in any way influenced us to follow his profession. But we wanted to do it, and we did.

#### Law Practice

SHEARER: I gather that after college, you practiced law with your father and two of your brothers [James and Paul].

O'GARA: My father practiced law for many years, as a partner of Walter De Martini. They'd been classmates at Santa Clara [College]. Perhaps at Hastings [College of Law], too. When I graduated law school, I went into their office as an assistant. I wasn't an employee, and I wasn't a partner. I had office space there, and worked part-time in law practice as I built it up little by little.

SHEARER: What kind of cases did you handle?

O'GARA: Well, collection cases, estates, personal injury.

SHEARER: So, a general practice.

O'GARA: A general practice. Then I became attorney for the Better Business Bureau.

SHEARER: What kinds of cases. . . . Did you prosecute fraud?

O'GARA: Yes, I did. I was the special prosecutor in a number of cases. False advertising.

SHEARER: So you were like a staff attorney, or you were on retainer from the Better Business Bureau?

O'GARA: I had a salary there, and I was part-time.  
[Mrs. O'Gara comments]

SHEARER: On fraud, business fraud? Mrs. O'Gara pointed out that you had a radio program on consumer fraud.

O'GARA: Yes, for a while I had a program then. I used to have guest speakers--district attorneys, special prosecutors.

SHEARER: So this must have been in the late thirties, middle thirties?

#### Political Activities

SHEARER: I have a note here that you ran. . . . Did you run for the board of supervisors? You served in 1941, and 1942, about eleven months.

[Mrs. O'Gara comments]

SHEARER: Mrs. O'Gara just pointed out that you were active in the Junior Chamber of Commerce, and in the Better Business Bureau, and had many, many friends, and that you were kind of a natural to run for the supervisor's seat.

O'GARA: Well, it's kind of obvious and natural when you had that kind of background, which is very helpful.

SHEARER: What district were you---?

O'GARA: Supervisors represented the whole city of San Francisco.

SHEARER: That's right; they didn't have district elections at that time. Where were you living at that time?

O'GARA: Mostly I lived at home with my family, on Russian Hill, Filbert Street near Hyde, 1142. Just half a block from where my wife's aunt and uncle lived.

SHEARER: Good. We're going to come to that story, I want to ask you about that cable car courtship. Before we get to that, I'd like to know if you recall any particular issues that engaged you as a supervisor in that year in which you served.

O'GARA: Well, not really. I served only one year and then I went on active duty in the navy.

SHEARER: How long were you on active duty?

O'GARA: At least three and a half years.

SHEARER: You were a Lieutenant Commander.

O'GARA: I became a Lieutenant Commander, yes.  
[Mrs. O'Gara comments]

SHEARER: Mrs. O'Gara pointed out that you had just come out of the navy in 1946 and had a beautiful white uniform, which I guess you were still wearing during the time that you began your first campaigning for the senate.

O'GARA: Yes. I think I was still in the navy although using up part of my retirement time.

SHEARER: What was it that got you interested in running for the [state] senate, in 1946?

O'GARA: Well, I'd been serving on the board of supervisors, I think I told you. But from the overall picture, I thought that if I established my name and record as a senator, it would be helpful in building my law practice.

SHEARER: So it was at least partly for business reasons that politics was under consideration for you?

O'GARA: Yes.

SHEARER: Did you find that you changed your view of your role in politics as the years went on?

O'GARA: My brothers were supporting me in the law practice while I was in politics, and we reached the point where we couldn't afford to support me any more. I didn't have enough time to practice law in the manner in which I would wish to and the same time be quite active in politics. Both things take a great deal of time, and dedication, and so it was extremely difficult.

SHEARER: Note from Mrs. O'Gara that at the time you were in the senate, they were paying senators just a hundred dollars a month.

Marriage to Mary Orme Johnson

O'GARA: That's right. And so my brothers were in effect supporting me, and after I married my wife. . . . We weren't married when I ran for senate the first time, were we?

SHEARER: Now, I wanted to ask you about that. You were running for the senate, and you were living at Filbert near Hyde, which was a half a block from where Mary Orme Johnson's aunt and uncle lived, is that right? And Mary Orme Johnson [the future Mrs. O'Gara] was living in Honolulu. So how did you meet?

O'GARA: My wife's uncle and his wife, that is, her aunt-in-law, invited me to their home to meet their little niece. I said, "All right."

SHEARER: OK. Their little niece. [Laughter] I just point out that Mrs. O'Gara is a fine, tall lady; that's the source of the humor.

O'GARA: So I said that I had been riding down in the cable car in the morning, the same cable car as my wife, and I always meant to introduce myself, and try to pick her up. But I didn't.

SHEARER: You'd seen each other, and you didn't know who she was, is that right?

O'GARA: No, I didn't know who she was.

SHEARER: And then you were introduced.

O'GARA: Mary Orme's uncle's home. Quite conventionally. And then we rode down in the cable car together.

SHEARER: What were you doing, Mrs. O'Gara, at that time? Were you working?

MRS. O'G: I was working for the savings and loan.

O'GARA: Savings Union Bank.

SHEARER: So you would commute together by cable car?

MRS. O'G: He said to me, the night we met, "Just what time do you catch the cable car?" And I said, "Eight-fifteen." Every morning when I went down, at 8:15 A.M., there he was waiting for me. So we'd ride downtown, holding hands on the way.

O'GARA: That's right.

SHEARER: That's wonderful. So, how long after you met and began commuting together did you decide to get married? When were you actually married?

MRS. O'G: [Inaudible] And we met in September. We were married on July 13, 1947. Forty years ago.

SHEARER: So your anniversary is Sunday, is that right? No, Monday, of this week.

O'GARA: We were married in Hawaii.

MRS. O'G: I went home. I wanted to be married at home.

## II. STATE SENATE RACE OF 1946

SHEARER: So you came--at the time of your campaign, your opponents [in the primary] were a man by the name of M. Meillor, and the other fellow running was Ernest Spagnoli. This was the time when there was cross-filing. I have a note here that you cross-filed, and that you were the top vote-getter in both primaries. So you essentially won the election in the primary. I think you mentioned to me at one point that you had campaigned with [Thomas A.] Tommy Malone, and I meant to ask you what that meant.

O'GARA: Well, I campaigned with him simply meant that there were a number of political meetings which he spoke at and which I spoke at. We weren't connected, but it was the same time, same place. And his era, so to speak. To some extent.



SHEARER: On the subject of cross-filing, several of the students of political development in California have said that cross-filing tends to benefit the incumbent, because his name appears at the top of the ballot, and if his name is well known, people just tend to vote for him. Now, you were of course not an incumbent, but your family was quite prominent, and you were all active in the community. Do you think that was significant in your winning so decisively?

O'GARA: Well, I certainly think that my father established a name, as special prosecutor in the graft prosecution trials. Then, I became known to some extent as his son and to some extent as attorney for the Better Business Bureau, because I had radio programs. About once a week I'd have a radio program for the Better Business Bureau.

SHEARER: You mentioned that your brothers helped support you while you were in office, because . . .

O'GARA: They were doing the work in the law office, and I was sharing the profits.

SHEARER: What about in the campaign? Did your family help you in other ways?

O'GARA: Well, I'm sure they did, yes. They weren't formally members of the campaign committee.

SHEARER: Was going door to door and shaking hands part of what you did, or did you speak at large meetings, or did you have mail campaigns?

O'GARA: I did all those things. But the large meetings were not too many. Smaller meetings in various parts of the city and occasionally at business groups were more important.

SHEARER: So there wouldn't be, for example, Democratic Party meetings at which you would speak?

O'GARA: Oh, yes. There were from time to time Democratic meetings at which I'd speak. The election was nonpartisan, or bipartisan, however you'd choose to look at it. On both tickets, which means bipartisan. Or nonpartisan. I wasn't running officially as the candidate of the Democratic Party, although they did endorse me.

SHEARER: What issues do you recall speaking to in that campaign? I know you became a member of the Military Affairs, Veteran's Affairs and Military Committee, and I recall your saying

something about the difficulty of finding veteran's housing.  
Was that an issue of your campaign?

O'GARA: Housing was an issue, and veterans accentuated it.

SHEARER: People were having difficulties finding affordable housing in San Francisco, whether or not they were veterans, is that right?

O'GARA: That's true.

SHEARER: You know, I just wanted to make one little note here on your cable car courtship, [Edmund G.] Pat Brown [Sr.] and Bernice [Layne] Brown had a very similar meeting, and courtship. Were you acquainted with Pat Brown as a young man?

O'GARA: Well, I would see him and meet him from time to time at Democratic meetings, and also other meetings where I would go as a Democrat and occasionally as attorney for the Better Business Bureau.

SHEARER: So you were acquainted with him.

O'GARA: Oh, yes. He was the district attorney, so I was dealing with his office when I was the attorney for the Better Business Bureau.

SHEARER: Do you have any comments or impressions of his management at the district attorney's office?

O'GARA: I think he did a very good job.

SHEARER: Was it clear to you at that time that he was going to go further in politics? Did you have that sense?

O'GARA: I can't say now. I know I certainly wished him well, and we did everything we could to help him.

SHEARER: Would you like to take a break for a few minutes?

[Interruption]

Mrs. O'Gara was just saying that every single one of your brothers and sisters had not only graduated from college, but had some advanced schooling as well.

O'GARA: Three years at least.

SHEARER: And I gather you had . . .

[End Tape 1, Side A]

[Begin Tape 1, Side B]

SHEARER: I'll repeat my question for the tape. I gather that you were helpful in seeing that your younger brothers and sisters followed in those footsteps.

O'GARA: We all did. We all worked after high school, before we went to college.

Impressions of the Legislature

SHEARER: I'd like to take you back to your first term in the senate. This would be 1947 to 1950. I think you mentioned that you were the youngest senator at that time.

O'GARA: I believe I was.

SHEARER: And you would have been 44, I guess. Did you say that George Miller [Jr.] was just a little older than you, and he was someone that you . . .

O'GARA: May have been just a little bit younger. I don't believe he was in the senate at the time I was in there. I think he went in there shortly after.

SHEARER: Was he someone that you worked with?

O'GARA: We were both what you might call liberal Democrats and active in legislation for common welfare, including labor.

MRS. O'G: [Inaudible] At that time most of the other senators were independently wealthy or retired. Isn't that right?

O'GARA: That's true. They were mostly older than I was, and as Mary Orme says, many of them were retired.

SHEARER: Well, that's certainly important in terms of their being largely independently wealthy, as Mrs. O'Gara pointed out. So your being young and not rich was a significant factor, that limited, in fact, your political career?

O'GARA: [Nods affirmatively]

SHEARER: Do you recall issues concerning labor that were important to you at the time you entered the senate, your first term?

O'GARA: I know there were a number of bills that affected labor, but I don't remember specifically which ones I took the most activity in or interest in.

SHEARER: Was it the custom in those days for the labor advocate to sort of give the senate and assembly people marks at the end of the session as to how well they had voted on labor legislation? Did you get high marks, for example, from the union?

O'GARA: I don't know that that was formally done. I can't remember.

SHEARER: So you weren't particularly aware of the pressure of public reporting of your performance on labor issues, as being a factor to contend with in your election and reelection.

O'GARA: Well, I realized that labor, like every other group that endorsed, carefully checked the record of everybody that was running for the senate.

SHEARER: Did you carry the labor endorsement?

O'GARA: Yes.

SHEARER: At the time that you ran, did the other---your opponents, Spagnoli and Meillor---did they get the labor endorsement or any kind of positive response?

O'GARA: I don't think so.

SHEARER: So you went in with a decided advantage in having that endorsement.

O'GARA: I think so, yes.

#### Housing and Highway Issues

SHEARER: I wanted to ask you a little bit about picking up on the housing as an issue. I think you mentioned that it was a general difficulty in San Francisco?

O'GARA: That's right.

SHEARER: Was it chiefly a matter of finding housing---any housing---or finding affordable housing? At that point, was public housing being considered as an option? Providing public housing?

O'GARA: Well, public housing is very important. The veterans particularly were coming home, and they didn't have a place to stay.

[Mrs. O'Gara comments]

SHEARER: Mrs. O'Gara pointed out that even you and she could find no place to live. For nearly a month after you were married, you had to live in the Marine's Memorial. That certainly states the issue clearly.

MRS. O'G: Then finally, we were asking everybody, and Gerald came down the elevator one day and someone said, "I have an apartment in one of my apartment buildings." So we moved right in.

[Inaudible]

SHEARER: That certainly says a great deal. I have a note here that one of [Governor] Earl Warren's aims in that period, '46 and '47, was to provide a highway system that would serve the state better. He had a postwar highway plan that found its way into the 1947 Highway Act of [Hugh M.] Burns and [Randolph] Collier, the 1947 Highway Act.<sup>1</sup> I gather that George [J.] Hatfield and. . . . Is he from Merced? And Oliver [J.] Carter, and George Miller, and of course Burns and Collier, were active in that. I seem to recall in reading some of their oral history comments that you were also involved in that legislation.

O'GARA: This is the highway [legislation]? Yes, I participated.

SHEARER: Was it difficult to pass this Act? One of the sticking points apparently for a while was that it involved raising a tax in order to support additional highway construction, and various counties throughout the state were affected. They had to agree to this additional tax, which turned out to be one and a half cents, I think, from the fuel tax.

O'GARA: Added to the fuel tax.

SHEARER: Was that a difficult idea to sell, do you recall?

O'GARA: I think that the legislation affected most of the counties. Benefited most of them.

SHEARER: And they seemed to recognize that their self-interest lay in paying the extra tax?

O'GARA: Yes, yes. That's right.

SHEARER: Do you have any comments or impressions that you'd like to relate of Senator Hatfield?

O'GARA: Well, he was a conservative senator, but a very fine man. Very good legislator and senator.

SHEARER: Was he hard of hearing at that point in his career?

O'GARA: I believe he was.

SHEARER: Mrs. O'Gara pointed out that sometimes, if he was not interested in what was going on in the legislature, he would simply turn off his hearing aid.

O'GARA: Yes. [Laughter] Very true.

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1. Collier-Burns Highway Act of 1947. See 1947 Stats. First Exec. Sess. ch. 11, p. 3788.

SHEARER: Do you have any impressions of some of the other people you worked with; George Miller, for example, on this highway act? Or impressions of people who were powers in the senate--in fact, Harold [J.] Powers, who was the president pro tem?

O'GARA: Yes.

SHEARER: Is he someone that was effective, do you think, in his . . .

O'GARA: Oh yes, very.

SHEARER: Was he helpful in welding majority votes in support of this highway legislation?

O'GARA: Yes, he was.

SHEARER: How did Earl Warren work with the legislature on this highway act?

O'GARA: I believe he favored it.

SHEARER: Did he make a practice of speaking with legislators directly, or did he send his representative?

O'GARA: Oh, he worked both ways.

SHEARER: I recall that when Pat Brown was in office, he made a practice of inviting legislators and their wives to the Governor's Mansion, and I'm wondering if that's something that Governor Warren did.

O'GARA: I think all governors did it, to some extent. Pat perhaps more than most.

MRS. O'G: [Inaudible]

O'GARA: Yes.

SHEARER: Mrs. O'Gara was saying that perhaps the fact that Earl Warren was a Republican had some effect on his practice of either socializing with the legislature, or was it socializing with Democrat legislators? Do you have any impression of whether this might have played a part?

O'GARA: Well, I'm sure it played a part, and I'm sure that he did socialize, as she says, with both parties. Yes.

SHEARER: Is there any more that you'd like to say about the committee work that you participated in during your first term, which would be '47 through '49. Your committees were Military and Veteran's Affairs, Business and Professions, Financial Institutions, Judiciary, and Labor.

O'GARA: Well, I think the ones that I was perhaps most active in were Judiciary and Labor, perhaps. Certainly Judiciary.

SHEARER: Did you participate in formulating the legislation affecting the bar exam and rules governing that?

O'GARA: Every legislator that was a lawyer, was involved in that. I certainly did.

SHEARER: What was it that you were trying to accomplish in this change that was made in the bar?

O'GARA: What specific change are you referring to?

SHEARER: Well, there was a move to redesign the bar exam rules or practices in 1949, and I believe it was an interim committee.

O'GARA: At this point, I'm not positive.

### III. SECOND SENATE TERM

SHEARER: In your second term, second senate campaign, in 1950, again you were cross-filing, and your opponent was Dean McNealy. Do you remember anything about him?

O'GARA: No, I don't.

SHEARER: Just an anonymous folk? You won in the primary, so you didn't have to face him in November. The same state officeholders were there--Governor Warren was still governor, and Goodwin [J.] Knight was lieutenant governor. Powers was the senate pro tem president. [Sam L.] Collins was the speaker of the house [1947 to 1952].

One thing I failed to mention earlier, but Tommy Maloney apparently was the speaker pro tem in 1949 [1943 to 1956]. I'm wondering whether your friendliness with him during your earlier campaign carried over into the legislature, even though you were in different houses. Do you think that it influenced your effectiveness, or you influenced his effectiveness, because you were both from San Francisco, and political friends?

O'GARA: I don't think that was the chief reason; I think we had a common interest and common goals. We tried to get them done. I was a Democrat, and he was a liberal Republican, so there wasn't much difference in viewpoint on most issues. Particularly where it affected the city.

SHEARER: I see. In 1950, or at least by 1951, you were chairman of the Committee on Military and Veteran's affairs, you were not any longer on the Business and Professions Committee, and not any longer on the Financial Institutions. You were still on Judiciary, still on Labor, and then there was something called the Institutions Committee. That was sort of puzzling. I'm wondering if that was related to Earl Warren's Department of Institutions? He had a Department of Institutions which covered some health departments and units governing mentally retarded, and corrections, just a whole array of departments which, in the words of one of our other interviewees, anything that was in a building was called an institution. Can you enlighten me on what Institutions Committee might have dealt with and your role on it?

O'GARA: Well, I think it had reference chiefly to things like the state mental health program, state health program. That's about what I remember.

SHEARER: The other committee on which you served was Governmental Efficiency, in 1951. And then, a little later, by 1953, I have a note that you were chairman of the Transportation Committee.

#### Creation of the BART Commission

SHEARER: Somewhere around 1951, there was a Senate Interim Committee for the Bay Area Metropolitan Rapid Transit District. Now, did you serve on that original committee in '51?

O'GARA: Yes. A report?

SHEARER: Yes, I have a copy of that.

O'GARA: I was chairman, I think.

SHEARER: So you were active on that, and chairman right from 1951?

O'GARA: I believe so.

SHEARER: And I gather in 1951, the Interim Committee created the Bay Area Rapid Transit [BART] Commission,<sup>1</sup> which then studied the whole problem of rapid transit in the nine counties of the Bay Area.

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1. Cal. Stats. 1951, ch. 1760.



O'GARA: That's right.

[Discussion deleted]

SHEARER: Well, going back to 1951 or '52, when the Senate Interim Committee on BART was in effect, who were the members of your committee?

O'GARA: Their names are here, and Senator [Arthur H.] Breed from Alameda County; Senator Collier is from the north; Senator [Jess R.] Dorsy I don't remember. Senator [Luther E.] Gibson is from the Vallejo; Senator [D. J.] McCarthy is San Francisco, and Miller was Richmond and Contra Costa County. [Harry L.] Parkman from San Mateo; [John F.] Thompson I don't remember exactly.

SHEARER: So that was your original committee. You were the chairman of that committee, and I was interested in some of the events of 1951 and '52. I guess I'd like to talk a little bit about the committee findings as background to why you were dealing with this proposal at all. Apparently, the committee found that the nine counties of the Bay Area were interdependent economically, and they really should be treated as a region, and that the vitality of this region depended on easy mobility.

O'GARA: Yes.

SHEARER: According to the committee's report, the ferries were discovered to be faster than the then current system, which was in the 1950s. Apparently the ferries were faster in the 1930s than the cars were in 1953, trying to get over the Bay Bridge. It said that people and not cars needed moving, that it was inefficient to deal with cars. And that what was needed was fast, convenient transit that was compressed into the commuter peak time, and that was cheap. And the committee said certainly no more than ten-cent fares should be promoted, because they wanted to make it seem absurd for people to consider driving their cars and parking them.<sup>1</sup>

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1. Senate Interim Com. on San Francisco Bay Area Metropolitan Rapid Transit Problems, "Mass Rapid Transit Answer to Traffic Congestion in the San Francisco Bay Area." (1953) pp. 4-36.

You've accomplished a great deal in the creation of this system that now serves these nine counties, but the ten cent fare seems not to have been achieved.

O'GARA: No, it never happened.

Developing Support for Committee Recommendations

SHEARER: Can you tell me what kind of support that you found for this proposal, and what kind of opposition?

O'GARA: Well, I can only say that people want transportation facilities in their own area, and in the areas adjoining it. They want to have a major voice in any system of transportation that is developed, and they don't want to be governed by people who live miles and miles away.

SHEARER: The list of people who served on your committee, and also who served on the commission, was very impressive. It seems to suggest that there was fairly widespread support for this proposal, or for this study. Do you think this was the case?

O'GARA: Well, it [support] just developed from the use of the automobile, and the fact that you'd have nothing but congestion all day long on the bridge if you didn't have rapid transit. I think that's the reason.

SHEARER: So the conditions of congestion on the bridge, which were then in effect, illustrated the dilemma?

O'GARA: They certainly did. Very importantly.

SHEARER: A couple of other things happened at that time. Apparently, in 1952, or perhaps a little earlier, there was an application on the part of the Key System to discontinue two of its main lines, served by the trains. That would be the A and the B line. And I noticed that one of the recommendations of the Senate Interim Committee was to oppose that application. Can you give any comments on that?

O'GARA: Yes. My feeling, and I'm sure of others too, was that you  
. . . .

[End Tape 1, Side B]

[Begin Tape 2, Side A]

- O'GARA: So my feeling was certainly that I wanted to get more and more people to use public transportation, but at the same time, you just cannot coerce people into using public transportation. The time comes when they balance in their own minds the advantages of public transportation, plus or as against the advantages of driving their own car. The expense and convenience of taking a car, and parking it, and paying for the parking, paying for the gas for it, as compared to taking public transportation, which would mean that at both ends of the trip in public transportation, you had to either walk or have somebody meet you or transfer to other public transportation. So, I think that it was the realization that two things have to be balanced all the time. The conveniences of each system, and the particular area that's covered, and the particular group of people who are using it; people who can afford it or people who can afford their own cars, and can take the time and don't object to the expense of operating their own cars.
- SHEARER: Did Governor Warren and Governor Knight give their support to this proposal?
- O'GARA: Well, our senate committee recommended that four hundred thousand dollars be appropriated to the Bay Area Rapid Transit Commission to make preliminary studies necessary for the development of a coordinated mass or rapid transit plan that serves the San Francisco Bay Area.
- SHEARER: That was labeled, Senate Bill 109,<sup>1</sup> I guess.
- O'GARA: I think so.
- SHEARER: And then I guess another consideration was to preserve and expand the existing mass transit systems. Was that addressed to the Key System application to discontinue their service?
- O'GARA: That was part of it. They didn't. . . . It wasn't making any money for them, and their patronage was dwindling all the time. People were driving their own cars.
- SHEARER: So Governor Warren and Governor Knight lent their support to this?

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1. 1953 Reg. Sess.

O'GARA: They certainly did.

SHEARER: What about the business community? Was this something that was obvious to them that they would benefit by the creation of a mass transit system? Did they see that as vital to the economic life of the area?

O'GARA: Well, I'm sure that some of the leaders did, but I don't think that the average businessman did.

[Mrs. O'Gara comments]

SHEARER: I want to state for the transcriber that Mrs. O'Gara said the original plan was to have the system go much further than it eventually did go.

What about the Highway Department? They did not see this as competition with the highway funds, or highway influence in some fashion? I notice that Randolph Collier and Luther Gibson were both on your committee, and they're strongly identified with highway interests. I'm wondering if this was a problem for these men at that time.

O'GARA: Well, I think they all realized that the use of highways was growing so fast, so widespread that it was just a matter of time until it was choked with traffic, unless you had a rapid transit system in the most congested areas.

SHEARER: So it wasn't viewed as competition?

O'GARA: I don't think so, no.

SHEARER: I notice that Harry Mitchell, who was the former president of the Western Pacific Railroad, was president of the commission. How is it that the railroads did not see rapid transit as competition with them? Do you have any thoughts on that?

O'GARA: No. I don't think it was a major thing. The railroads are mostly not particularly interested in the rapid transit, to and from the immediate areas of the large cities, and that's where your rapid transit is.

SHEARER: Are they perhaps more interested in freight than in passengers?

O'GARA: I think that's where they make their money.

SHEARER: I see. Did you continue to participate in the transit activities following your senate career?

O'GARA: I don't think I was on any of the committees or commissions.

SHEARER: I seem to remember your saying something about going on a tour to Europe or a tour in Canada, investigating various subway and transit systems.

O'GARA: Oh, that was a more or less independent activity on my part.

SHEARER: So this was serving your own interest in the subject, and the project of rapid transit.

O'GARA: Yes.

SHEARER: Berkeley City Council sent a delegation to Toronto. I think it was either in 1963 or 1964. I just wondered if by chance you were there in Toronto at the same time, looking at that [system].

O'GARA: I may have been; I don't recall.

SHEARER: Do you have any comments you'd care to make on the BART board of directors, or the management, once the system got in place?

O'GARA: I think overall and generally speaking, they did a good job and do a good job.

SHEARER: Were you acquainted with Allan Charles, who served on the transit board?

O'GARA: Yes.

SHEARER: Was he involved early on?

O'GARA: I don't remember at this moment at what point he became involved. I know he was, and he was a good man.

SHEARER: Was San Francisco's decision to underground BART as fraught with controversy as it was in Berkeley in the early sixties?

O'GARA: I don't think so. I think people in San Francisco realized that they had reached the limit long ago in surface transportation. If they were going to make any improvements, it had to be underground. Berkeley had a lot more area over there that wasn't developed, or lightly developed, and the expense [of undergrounding the trains] was a big factor there.

SHEARER: Is there anything else you'd care to say about your senate activities in the second term, before . . .

O'GARA: I don't think of any at this moment.

SHEARER: The reason you left the senate was essentially financial?

O'GARA: Yes.

SHEARER: So at the end of your second term, you felt you had asked your brothers to do as much as they could be expected to do? And Mrs. O'Gara as well?

O'GARA: That's right. They made a big contribution.

SHEARER: She was working all the time you were in the senate?

MRS. O'G: I was glad to do it; I was proud of him.

O'GARA: Yes. Great help.

[Mrs. O'Gara comments]

SHEARER: I'm going to restate that for the tape. Mrs. O'Gara pointed out that the judge had four secretaries working for him during the time he served in the senate. Every letter that came into him had to be answered. And Mrs. O'Gara was working to contribute to pay the bills.

O'GARA: Oh, yes, yes.

[Discussion deleted]

SHEARER: I'm going to suggest that we take a break, and decide whether we're going to talk about postcard fraud today or next time.

[End Tape 2, Side A]

[Session 2, August 5, 1987]

[Begin Tape 2, Side A]

#### IV. POSTCARD FRAUD INCIDENT OF 1962

SHEARER: In an article that you wrote on unfair campaign practices for the American Jurisprudence Trials<sup>1</sup>, you remarked that it is now standard operating procedure for both sides in an election campaign to cry "foul, because each claims the other is hitting below the belt. The chief problem arises in determining where the belt line is, and in distinguishing between the political foul that may shock and outrage the public, and the political foul that is within the reach of the court of equity."

##### Background

SHEARER: Judge, can you give us a little background on this particular principle as illustrated by the postcard fraud case in 1962, and I'm referring now to your article, "Unfair Election Campaign Practices," in American Jurisprudence Trials.

O'GARA: I can't read that and read this at the same time. What did you have in mind?

Yes. On page 21, I can read a section entitled "An Illustrative Case."

"The California gubernatorial contest in 1962 provides an illustration of the ways in which equity will act in the proper case. In this

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1. Gerald O'Gara, "Unfair Election Campaign Practices," American Jury Trials 84 (1968):20.

election, in which former Vice-President Richard Nixon challenged the incumbent Democratic governor, Edmund G. Brown, innuendo about pro-Communism was injected into the campaign in direct-mail literature.

"During the summer of that year, conservative California Democrats began to receive in the mail a large postcard with a return card attached. It supposedly originated from the Committee to Preserve the Democratic Party in California. The card contained a questionnaire, and ended with a request for funds for the committee.

"Among other questions, the card asked whether the recipient approved admitting Red China to the United Nations, and allowing subversives the freedom of college campuses. It was clearly implied that a yes answer reflected the views of the California Democratic Council [CDC], a large but unofficial volunteer organization.

"After demonstrating what it considered the left-wing stance of the CDC, the questionnaire asked, 'Can California afford to have a governor indebted to CDC?' In closing, the postcard offered some possible courses of action. The voter could 1) demand repudiation of the CDC by Democrats, 2) deny support to the Democratic candidates who failed to denounce the CDC, or 3) support a 'Republican' candidate, rather than sell out the party in the state government to CDC objectives."<sup>1</sup>

#### How the Fraud was Discovered

SHEARER: Judge, do you remember how the existence of that postcard questionnaire came to light?

O'GARA: Yes. It says here, for example, in the Democratic State Central Committee case, a woman telephoned the Democratic headquarters one day during the last weeks of the campaign,

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1. Id. sec. 22, p. 46.



and reported to an aide that she had finished addressing the Democratic postcards that had been assigned her.

"She now wanted instructions on what to do with those cards which were left over. The aide reflected that this was a rather strange inquiry, since the Democrats were not then sending out any material in postcard form. His curiosity aroused, he told the caller to bring the extra postcards to the Democratic headquarters, giving her instructions on how to locate the proper address.

"The lady soon arrived, carrying a large bundle of postcards which she readily turned over to Democratic officials. A quick inspection of the material, which was later to become Exhibit A, disclosed that the postcards ostensibly emanated from within the Democratic Party, but were highly unfavorable to its candidate, and in fact had been prepared by the opposition.

"One significant fact derived from the incident was the confusion of the woman caller, as to which Democratic committee had employed her. This provided an excellent illustration during the course of the litigation of how likely it was that a similar confusion must have existed in the minds of the voters who received the postcards."<sup>1</sup>

SHEARER: I see. And that was later used by Roger Kent and the Democratic Party, to help prove their case, I gather?

O'GARA: Yes.

SHEARER: I'm referring now to a portion of an oral history by Roger Kent, who comments on that part of the story. He has much to say in praise of your efforts, Judge, to investigate the situation, and assign the appropriate responsibility. He says that it was pretty clear to the Democratic party committee that this was a professional job, and the assumption was that the pros who were handling the political campaign for the Republicans, which at that time was the firm of [Clem] Whitaker and [Leone] Baxter, would have had a

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1. Ibid. sec. 22, pp. 46-47.

hand in it. So Leone Baxter's deposition was taken, and, apparently, in this deposition, she admitted that she had gone down and shown Nixon the postcards, which she said had been a product of some "amateur activist," this is Roger Kent's word.<sup>1</sup>

She showed it to him, and she was asked in her deposition, "Well, what did Nixon think of it?" And she said, according to Kent, "'He liked it. He sharpened it up.' And when you say that when he sharpened it up, all you mean is that you get all the lies and the dagger in deeper," according to Roger Kent.

Was this [deposition] an important part of the case to show that there was knowledge by the party's candidate of the existence of the postcards?

O'GARA: I think it was extremely important. It tied it in on a factual basis with details.

SHEARER: What were the charges that the Democratic party made before the judge to try to get a restraining order of further distribution of the postcard, and any collection of monies?

O'GARA: Yes. The charges that were made were very largely as stated in the complaint involved in the Democratic State Central Committee case. For example, the complaint may state, and in this instance did state:

"1) The opposition is sending a postcard that purports to emanate from the plaintiff, hereinafter referred to as the party, to the voters, and asking them to fill out a poll and return it to an office that is actually a headquarters of the opposition, and not that of the party.

"2) The defendants are attempting to lead the public to believe that the party wishes its members to send money for the use of the party and its statewide candidates to the headquarters of

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1. Roger Kent, "Building the Democratic Party in California, 1954-1966," an oral history conducted in 1976 and 1977 by Anne H. Brower and Amelia K. Fry, Regional Oral History Office, The Bancroft Library, University of California, Berkeley, 1981, p. 196.

the Committee to Preserve the Party at a designated address. Actually, the so-called Committee to Preserve the Party is an arm and agency of the opposition, and any money sent to the designated address will be used to defeat the party's candidates.

"3) The defendants are attempting to lead the public to believe that the party, or a campaign committee authorized by it, desires to secure a bona fide poll of its members, answering questions relating to the party and its candidates. In fact, the opposition intends to publicize the results of the poll, to bring about the defeat of the party's candidates.

"4) The statement that the party's Auxiliary Council dictates the course of the party and its candidates is untrue. All the candidates of the party referred to in the objectionable material have been selected by the party in free and open elections or conventions.

"5) The statement that the party's Auxiliary Council is "left-wing," or "right-wing," as the case may be, is untrue. In fact, 90 percent of the members of the Auxiliary are loyal and patriotic Americans, and middle-of-the-road members of the party. A small but noisy 10 percent of the party who belong to the left (or right) wing have no voice in the formation of the Auxiliary's policies, and have never elected one of their members as an officer or director of the Auxiliary.

"6) The alleged 'poll' is rigged to confuse and mislead members of the party. Questions on the poll are so framed and worded that the answers can serve only the purpose of the opposition. Persons receiving the polls, while technically members of the party, are in many cases only nominal members of the party, and actually support the opposition party in nine elections out of ten. The defendants have arranged to send the poll to persons who live in precincts that have consistently voted in favor of the opposition party

candidates, and against the candidates of the party for the past 10 years."<sup>1</sup>

Grounds for the Temporary Restraining Order

SHEARER: That's quite remarkable. And it's certainly very clear, as you have stated it in the article, that the intent was to mislead the recipients of the postcard poll. I gather, however, that the temporary restraining order was awarded, or decided, rather, on technical grounds. One of them being that the material, the postcard poll, failed to state the name and address of the printer and the publisher, as is required by the elections code. Another technical requirement, which was violated, was that the material included the name of the Democratic party, and solicited funds on behalf of the Democratic party, without having obtained permission from the Democratic party to actually solicit funds. The third technical violation was actually a violation of the state's law requiring truth in advertising, because it wasn't actually. . . . It was kind of a consumer fraud, if you can stretch the definition so far, because it simply failed to really state that it was a group of Republicans who were circulating this material, rather than the Democrats.

I'm wondering why, if you can comment now on the strategy, what informed your thinking at that time; why did you try just for technical grounds? Was that because it was a consent decree that was obtained by Judge Arnold?

O'GARA: Well, I think it's several reasons. First of all, unless you have solid technical grounds, the whole thing would be thrown out. So, the so-called "technical grounds" are really the basic and fundamental groundwork for the action that was sought.

SHEARER: I see. So, no matter how severely your moral perceptions may be violated, unless it has a basis in technical or statutory violation, you won't get the restraining order that you wish?

O'GARA: That's absolutely correct.

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1. Id. sec. 49 pp. 79-80.

SHEARER: I see. The judge in this instance was Judge Byron Arnold?

O'GARA: Yes.

[Discussion deleted]

Distinguishing Real from Fake Political Organizations

SHEARER: I'd like to ask you how the situation of creating what you might call a fake organization. . . . What kind of problems that poses in legal terms for an attorney, and I'm referring to what you had illustrated in this particular instance.

O'GARA: Would you tell me that again, please?

SHEARER: Well, I'm interested in some of the various forms that this device might take, that is, the device of creating a sham or a shadow organization, in order to produce campaign literature that might affect the outcome of an election.

O'GARA: Well, the first thing that has to be borne in mind is that it's quite common for both parties, both the Democratic party and the Republican party, to organize committees from the opposition party to favor the candidate of their choice. In other words, for a Democratic candidate, who is running for governor of California, it's very important that his committee, his Democratic committee, to elect him governor, get the support of Republicans. And that those Republicans give themselves some title which indicates that they are Republicans supporting a Democratic candidate.

SHEARER: You're speaking now of authentic committees and organizations, supporters of the opposition candidate?

O'GARA: Yes.

SHEARER: Well, how do you distinguish between authentic organizations of clear supporters of the opposition candidate, from those organizations set up to essentially discredit the opposition?

O'GARA: Well, I think of that as quite a difficult question not only for me to answer, but for the persons who are attempting to set up such committees, or to expose committees which they think are essentially fake committees. I don't know where the line can be drawn, and I don't think any general rule can be laid down which very clearly states: Now, if you cross this line, you are doing something that is illegal or at the very least, unfair and not proper.

SHEARER: Now, in the case which you discussed, which is the postcard fraud, the manner in which it came to light indicated to those who were "in the know" that materials were being sent out, and of course, Roger Kent and others knew that the Democratic party, the real party, was not sending out any materials. But to somebody who didn't know that, I wonder how. . . . What would tip a person off that this was not a legitimate group?

O'GARA: Well, I suppose that the very fact that the committee is set up which says that it is. . . . Let's assume that it's a committee which is set up by Democrats, who wish to get the support of Republicans for their candidate, I would say that the first thing they have to do is to get some bona fide Republicans who will lend their names and, if possible, their time and efforts to the campaign and to the steps that are taken to unmask the misleading tactics of the opposition.

SHEARER: So, careful investigation, I guess, is pretty important. . .

O'GARA: Very important, extremely.

SHEARER: . . . in such an instance. I noticed that the relief and the damages--well, the damages that you obtained. . . . You obtained a favorable judgment, that is, consent decree stopping the activities of this "Committee to Preserve the Democratic Party." And that the real Democratic Party did obtain damages in the amount of \$378, a very small amount, considering how much. . . . I think there was an estimate that the "Committee to Preserve" spent about seventy thousand dollars to mail the postcards out. The amount of damages awarded was very small. Why was that? Was that because it was a consent decree, or you wanted to have a consent decree and not have to go to trial?

O'GARA: Well, I think that the basic reason is that to collect damages in a case like this would involve so much work and so much legal expense, and time, that it wouldn't be. . . . I wouldn't say it wouldn't be worthwhile. But in fact, it would probably cost more than whatever was recovered, at the very least.

SHEARER: I gather that one of the considerations that might have informed the decision on which strategy to pursue legally was the unwillingness of the authentic Democratic party, whose coffers were not overflowing, to go up against a crack

team of lawyers which would be presented by Richard Nixon, if, for example, they decided to press charges against him as the candidate.

O'GARA: Oh, I think so. And that it would be extremely difficult to prove. The candidate, whether it's Nixon or any other candidate, he could very truthfully say that he was busy campaigning and didn't have the energy or the time to check every single detail of the campaign, and if some members of the committee made a mistake, that's unfortunate, but nothing that he had anything to do with.

SHEARER: Well, certainly the activities of the campaign in the final days before the election are very intense.

O'GARA: Yes, they are.

SHEARER: I guess everyone realized that that is a . . .

O'GARA: And we have to realize that the workers on all these committees, people who are doing the work, are volunteers and are taking time away, in some cases, from time that they would spend earning a living, and in other cases, time that they would devote to themselves and their families.

SHEARER: One thing that surprised me was how little press reaction there seemed to be, and then I began counting out, looking at the calendar, and I noticed that the temporary restraining order was issued, I think, the same day that President Kennedy announced that there were Russian missiles in Cuba. I'm wondering if that might have knocked this off the front page.

O'GARA: Well, I certainly believe it did. It either would accomplish that, or would have a very strong impulse in that direction.

[End Tape 2, Side A]

[Begin Tape 2, Side B]

MRS. O'G: . . . if any injunction is placed against the poll, the Democrats were awarded as damages and costs, the total amount of contributions raised by the poll. [Inaudible]

SHEARER: I just wanted to refer to a copy that I made of the actual postcard, which has a list of all the dreadful things that Governor Brown was supposedly in support of, and I noticed that here it says that the CDC viewpoint favors admitting

Red China to the United Nations, and I was thinking of President Nixon going [to China] [Laughter] and reopening the whole China thing. Moratorium on US nuclear testing, allowing subversives the freedom of college campuses, abolition of state and federal loyalty oaths, abolition of the House Committee on Un-American Activities, Foreign Aid to countries with Communist governments, complete national disarmament as an ultimate goal, refusal to bar Communists from the Democratic party. And this all seems so long ago.

O'GARA: Yes.

SHEARER: Things that seemed so beyond the pale then have become assumed by a much larger proportion of the general public.

MRS. O'G: Particularly the McCarthy Committee. [Inaudible] Democratic Party was awarded the sum total of the monies collected by the Committee to Preserve the Democratic Party, and that was about three hundred and seventy-eight dollars, I guess.

SHEARER: Apparently, there was another piece of what Roger Kent describes as election fraud, which involved a photograph of Governor Brown, which he charged had been cropped to depict Governor Brown as bowing and smiling to Nikita Krushchev. It says here in an article that investigators were able to locate the original photograph. Were you one of those investigators who was able to locate that photograph, or was that not part of your assignments?

O'GARA: I don't remember that at the moment.

MRS. O'G: [Inaudible]

SHEARER: It wasn't clear to me whether that was one of the pieces of activity that you investigated when you were acting as an attorney in 1962, or whether this was something that was handled by other members of the Democratic party.

O'GARA: Well, I think it's some of both. The Democrats had their committees working on this, and the lawyers were trying to use everything that would strengthen the case. To bring that. . . . Get that on the record in their court case.

#### Thoughts on Election Campaign Practices Today

SHEARER: Do you have any comments that you'd like to make, either in answers to questions that I haven't asked, or just further thoughts on election campaign practices, having viewed elections for many years?



O'GARA: Yes. My comment is that today, the all-important thing is television. Whichever party can most effectively use television will have a great advantage. Now, to be certain that everything that's used on television is not only not false but actually is fairly stated and proper, is a big order, and I think that's what the leaders of both the major parties endeavor to do today.

SHEARER: Two things occurred to me. One: I wonder if the use, or as some people feel, the overuse, of television opens the way for abuse in a way that more primitive or personal campaigning did not. Do you feel this is the case, that the use of television makes abuse more likely?

O'GARA: I don't think so. So much depends on the individual case, and the resources that are in the hands of the group that is using TV. Offhand, I couldn't give you any general answer.

SHEARER: What kind of effect do you think the use of television might have on the selection of a candidate himself, the importance of being able to perform and function on television?

O'GARA: I think it's extremely important, because of the people who are involved in campaigns, both the professionals and the amateurs, and I don't mean to use the word amateur in the sense of not knowing what they're doing, but I mean people who are in politics because they're interested in it, and perhaps some day hope to get involved more directly as a candidate or otherwise. So it's all important.

SHEARER: Well, I thank you very much.

O'GARA: Well, you're most welcome, and I thank you. Very gracious to come and ask all these questions, and give me the opportunity to be heard. I'm sorry that I can't always put my finger immediately on the proper answer.

SHEARER: I think you've put your finger on the proper answer quite often enough, and I thank you very much.

O'GARA: You're most welcome.

[End Tape 2, Side B]

[End of Session]

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## OBITUARIES

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### Gerald J. O'Gara

Gerald J. O'Gara, a retired state senator and Municipal Court judge, died Saturday after years of failing health. He was 86 and had a history of heart trouble.

A member of a distinguished San Francisco family, Judge O'Gara was a son of John O'Gara, who prosecuted political boss Abe Ruef in the graft scandal trials that came after the 1906 earthquake and fire.

Judge O'Gara served in the state Senate for eight years, and retired in 1982 from the Municipal Court bench.

A meticulous attorney with a dry courtroom manner, he was a graduate of the Hastings College of the Law and was a past president of its alumni association.

Judge O'Gara, who resided in Pacific Heights, was also a member of the Presidio Golf Club and the Commonwealth Club.

Survivors include his wife, Mary Orme O'Gara, and his last surviving sibling, publicist Mary T. O'Gara, as well as several nieces and nephews.

The rosary will be recited Thursday at 7 p.m. at Halsted N. Gray-Carew & English funeral home, 1123 Sutter Street, with a Mass of Christian burial Friday at 10:45 a.m. at St. Vincent de Paul Church, Green and Steiner Streets. Interment will be in Holy Cross Cemetery, Colma.

The family suggests contributions to the American Heart Association.