

1 distributing any results from any poll which they conducted or  
2 are conducting by means of Exhibit A .

3 (c) Soliciting, collecting or accepting money from  
4 Democratic voters by using directly or indirectly any postcard,  
5 pamphlet, folder, letter or writing in the form of Exhibit A ,  
6 or in any form substantially similar to Exhibit A .

7 (d) Using, appropriating, spending or disbursing any  
8 money received in response to or in connection with said postcard.

9 IT IS FURTHER ORDERED that a copy of the complaint and  
10 supporting affidavits and points and authorities, together with a  
11 copy of this order to show cause and temporary restraining order  
12 be served on said defendants not later than October 23 1962,

*C.H.E.*  
at 5 o'clock P.M.

Dated: October 22, 1962.

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15  
16 Charles Paulhill  
17 Presiding Judge of the Superior Court

18 This order is conditioned upon plaintiffs filing a surety bond  
19 conditioned according to law in the sum of \$10,000.

20 Oct .22,1962

21 Charles Paulhill  
22 Presiding Judge of the Superior Court

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ORDER SHORTENING TIME

Good cause appearing therefore, IT IS HEREBY ORDERED that the time for service of the foregoing notice of motion, declarations and memorandum of points and authorities is shortened so that the same may be served on the defendants herein not later than October 23 1962 at 5:00 P. M.

*CH*

Dated: October 22 1962

*Charles Paulfield*  
Presiding Judge of the Superior Court

1 GERALD J. O'GARA  
2 O'GARA and O'GARA  
3 1200 Mills Tower  
4 San Francisco 4, California  
5 EXbrook 2-2677

6 Attorneys for Plaintiffs

**FILED**

OCT 22 1962

MARTIN MORGAN, Clerk

*J. J. [Signature]*  
Deputy Clerk

7  
8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR  
9 THE CITY AND COUNTY OF SAN FRANCISCO

10 DEMOCRATIC STATE CENTRAL COMMITTEE,  
11 ROGER KENT, individually and as a member  
12 and officer of the Democratic Party and  
13 Democratic State Central Committee and  
14 ELIZABETH RUDEL GATOV, individually and  
15 as Democratic National Committeewoman,

16 Plaintiffs,

17 vs.

18 COMMITTEE FOR THE PRESERVATION OF THE  
19 DEMOCRATIC PARTY IN CALIFORNIA, an un-  
20 incorporated association, JOSEPH ROBINSON,  
21 WILLIAM MARLIN, HARRY J. BOYLE, First Doe  
22 through Twentieth Doe, individuals,  
23 associations and corporations,

24 Defendants.

No. 526150  
POINTS AND  
AUTHORITIES IN  
SUPPORT OF TEMPORARY  
RESTRAINING ORDER

25  
26  
27 1. Plaintiffs have standing to complain of defendants'  
28 conduct.

29 "Each state central committee shall conduct party  
30 campaigns for the party to which it belongs and  
31 in behalf of the candidates of its party. It  
32 shall appoint committees and appoint and employ  
campaign directors and perfect whatever campaign  
organizations it deems suitable or desirable and  
for the best interest of the party." Elections  
Code § 8231.

33 2. This Court may grant a temporary restraining order since  
34 the verified complaint and the declaration of Roger Kent filed  
35 herein show that great or irreparable injury would result to  
36 applicants before the matter can be heard on notice. Code of  
37 Civil Procedure § 527.

38 3. This is a case in which an injunction may be granted,

1 under each of the following subparagraphs of section 526, C.C.P.:

- 2 1. When it appears by the complaint that the  
3 plaintiff is entitled to the relief demanded,  
4 and such relief, or any part thereof, consists  
5 in restraining the commission or continuance  
6 of the act complained of, either for a limited  
7 period or perpetually;
- 8 2. When it appears by the complaint or affidavits  
9 that the commission or continuance of some  
10 act during the litigation would produce waste,  
11 or great or irreparable injury, to a party  
12 to the action;
- 13 3. When it appears, during the litigation, that  
14 a party to the action is doing, or threatens,  
15 or is about to do, or is procuring or suffer-  
16 ing to be done, some act in violation of the  
17 rights of another party to the action respecting  
18 the subject of the action, and tending to render  
19 the judgment ineffectual;
- 20 4. When pecuniary compensation would not afford  
21 adequate relief;
- 22 5. Where it would be extremely difficult to  
23 ascertain the amount of compensation which  
24 would afford adequate relief;
- 25 6. Where the restraint is necessary to prevent  
26 a multiplicity of judicial proceedings;

27 This case does not fall within any of the provisions of  
28 section 526, C.C.P. which prohibit the granting of an injunction.

29 4. Preventive relief is available to enjoin untrue or mis-  
30 leading advertising. Civil Code section 3369.

31 5. Injunctive relief is available even in cases where  
32 property rights, in the strict sense, are not adversely affected,  
and though the enjoined conduct may be criminal. \*

33 Dandini v. Dandini (1948) 86 C.A. 2d 748, 195 P. 2d  
34 871, 876-87. [Injunction available to enjoin bigamous  
35 marriage.]

36 Orloff v. Los Angeles Turf Club (1947) 30 C. 2d 110,  
37 180 P. 2d 321. [Injunction available to prevent un-  
38 lawful ejection from a race-course.]

39 Herald v. Glendale Lodge (1920) 46 C.A. 325, 189 P.  
40 329. [Injunction available to restrain lodge from

1 serving liquor in violation of ordinance.]  
2 6. Defendants' conduct in publishing, distributing, and  
3 circulating Exhibit A attached to the complaint (the Nixon post-  
4 card) violates the following sections of the Elections Code in  
5 the respects set forth in the complaint:

6 § 11592. Printed matter.  
7 Every bill, placard, poster, pamphlet or other  
8 printed matter having reference to an election or  
9 to any candidate shall bear upon its face the name  
10 and address of the printer and publisher.

11 No payment therefor shall be made or allowed unless  
12 the name and address is so printed.

13 § 12047. Unidentified circulars, pamphlets or posters.  
14 Every person is guilty of a misdemeanor who writes  
15 or causes to be written, printed, posted, or dis-  
16 tributed any circular, pamphlet, letter, or poster  
17 which is designed to injure or defeat any candidate  
18 for nomination or election to any public office by  
19 reflecting upon his personal character or political  
20 action, unless there appears upon the circular,  
21 pamphlet, letter, or poster, in a conspicuous place,  
22 the name and address of the printer and either:

23 (a) The name and address of the chairman and  
24 secretary or the names and addresses of at least  
25 two officers of the political or other organization  
26 issuing it; or

27 (b) The name and residence address, with the  
28 street and number, if any, of some voter of this  
29 State, who is responsible for it.

30 § 12301. Required consent for solicitation.  
31 It is unlawful for any person which includes in any  
32 part of its name the name of any political party  
33 which was qualified to participate in the last  
34 preceding primary election, to directly or indirectly  
35 solicit funds for any purpose whatsoever upon the  
36 representation either express or implied that the  
37 funds are being solicited for the use of that political  
38 party unless that person shall have previously obtained  
39 the written consent of one of the following: National  
40 committeeman or committeewoman from California,  
41 chairman of the state central committee, or executive  
42 committee of the county central committee of the  
43 party whose name is being used in the county in which  
44 the solicitation is to be made. If the county central  
45 committee of the party in that county does not have  
46 an executive committee, the written consent of the  
47 chairman and secretary of that county central  
48 committee is sufficient.

1 GERALD J. O'GARA  
O'GARA and O'GARA  
2 1200 Mills Tower  
San Francisco 4, California  
3 EXbrook 2-2677

4 Attorneys for Plaintiffs

**FILED**

OCT 22 1962

MARTIN MONGAN, Clerk

*J. J. [Signature]*

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7  
8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR  
9 THE CITY AND COUNTY OF SAN FRANCISCO

10 DEMOCRATIC STATE CENTRAL COMMITTEE,  
ROGER KENT, individually and as a member  
11 and officer of the Democratic Party and  
Democratic State Central Committee and  
12 ELIZABETH RUDEL GATOV, individually and  
as Democratic National Committeewoman,

13 Plaintiffs,

14 vs.

15 COMMITTEE FOR THE PRESERVATION OF THE  
16 DEMOCRATIC PARTY IN CALIFORNIA, an un-  
incorporated association, JOSEPH ROBINSON,  
17 WILLIAM MARLIN, HARRY J. BOYLE, First Doe  
through Twentieth Doe, individuals,  
18 associations and corporations,

19 Defendants.

526150  
No.

20  
21 DECLARATION OF ROGER KENT, SUPPLEMENTING  
22 COMPLAINT FOR INJUNCTION, TEMPORARY  
RESTRAINING ORDER AND DAMAGES:

23 I, the undersigned, Roger Kent, hereby declare:

24 I am a duly licensed and practising attorney at law. I am  
25 the Vice-Chairman of the plaintiff Democratic State Central  
26 Committee of California. I have been a member of the Democratic  
27 State Central Committee for more than ten years. In 1960 I was  
28 State Chairman of the Democratic State Central Committee. I am  
29 personally acquainted with more than 5000 leaders of the  
30 Democratic Party in California.

31 During the past twenty years I have participated in numerous  
32 Democratic Party activities, and have served on committees of

1 almost every type district, state and national Democratic cam-  
2 paigns, organizations and committees. I know the effect on the  
3 average voter of propaganda such as the mailing piece marked  
4 Exhibit A, and hereinafter called the Nixon postcard.

5 I was one of the founders in 1953 of the California Demo-  
6 cratic Council, as an independent arm of the Democratic Party.  
7 It is similar to and was established after the Republican Assembly,  
8 which is an accredited political arm of the Republican Party in  
9 California.

10 The Democratic State Central Committee exists pursuant to  
11 the Elections Code of California and conducts the business and  
12 campaigns of the Democratic Party in California.

13 The California Democratic Council is an unofficial organiza-  
14 tion composed of more than 70,000 California Democrats dedicated  
15 to the best interests of the United States, the State of  
16 California and the Democratic Party, in that order.

17 The Democratic State Central Committee and the California  
18 Democratic Council are independent but they cooperate closely in  
19 supporting candidates believed by both organizations to be  
20 worthy of election by the people of California.

21 Since its organization, the California Democratic Council  
22 has greatly helped the Democratic Party in California through its  
23 members' unselfish contribution of time, effort and money at all  
24 levels of campaign effort for the election of Democratic  
25 candidates.

26 Since there exists a greatly preponderant Democratic  
27 majority of votes in California, the efforts of the Democratic  
28 State Central Committee and the California Democratic Council  
29 are the greatest obstacle confronting Richard M. Nixon, the  
30 Republican candidate for Governor and his supporters. Since  
31 Nixon cannot be elected by Republican votes alone he and his  
32 supporters, both amateur and professional, have publicly admitted

1 they are doomed to defeat unless they can divide and conquer the  
2 Democratic vote. This they are now attempting to do by making  
3 a split between the Democratic State Central Committee and the  
4 great body of Democratic voters on one side and the  
California Democratic Council on the other side.

5 Part of this effort has been an attempt to discredit the  
6 California Democratic Council by the unjustified accusation that  
7 it is "leftwing" and that all the Democratic statewide candidates  
8 it supports including Incumbent Governor Edmund G. Pat Brown,  
9 Attorney General Stanley Mosk, and Controller Allan Cranston  
10 are also "leftwing". Such accusations by direct statement, by  
11 innuendo and by implication are set forth in the Nixon postcard  
12 attached hereto as Exhibit A. Reliable polls indicate that  
13 Democratic voters overwhelmingly favor the re-election of  
14 Governor Brown because of his integrity, ability and splendid  
15 record of achievement for the people and the State of California.

16 Governor Brown's re-election is assured if Democratic voters  
17 who favor him vote for him on Election Day, November 6. The com-  
18 bined efforts of the Democratic State Central Committee and the  
19 70,000 active members of the California Democratic Council will,  
20 if unimpeded by unfair and illegal tactics of Nixon supporters,  
21 as exemplified by the Nixon postcard Exhibit A, result in a  
22 Democratic victory for Governor Brown on Election Day.

23 Thus far Nixon's supporters have campaigned through their  
24 established official campaign committees and also through a number  
25 of auxiliary unofficial committees. The most recent of these  
26 latter is the defendant Committee for the Preservation of the  
27 Democratic Party in California. Its activities began about  
28 October 12, 1962 with the printing and publication of the Nixon  
29 postcard. It does not have the approval of the Democratic Central  
30 Committee or any other regular committee of the Democratic Party.  
31 I know of no Democratic leader on this Committee. However, Joseph  
32 Robinson of San Francisco, a professional political fund raiser,



1 I am informed, is either on this Committee or is its director.

2 I do not know the exact basis on which Joseph Robinson is  
3 handling the publication and distribution of the Nixon postcard.  
4 I am informed and believe, and on the basis of such information  
5 and belief allege, that he owns and controls the two postage  
6 permits on the Nixon postcard, namely, Bulk Rate Postage Permit  
7 No. 8092 and Business Reply First Class Mail No. 2361.

8 It is impossible for me to determine how many persons are  
9 members of the defendant "Committee for the Preservation of the  
10 Democratic Party in California."

11 In the background, sponsoring the defendant Committee for  
12 the Preservation of the Democratic Party in California, are other  
13 defendants who are members of various Nixon for Governor  
14 Committees. These Nixon supporters are lending their names and  
15 efforts to this project and at the same time are active in the  
16 Nixon campaign in other capacities.

17 What the exact relationship is between the official Nixon  
18 for Governor Committees of California, of Northern California  
19 and of San Francisco, and the defendant Committee for the  
20 Preservation of the Democratic Party in California, I do not  
21 know.

22 However, there are definite links between the official Nixon  
23 campaign and the defendants' unofficial Nixon campaign. For  
24 example, I am informed and believe and on the basis of such  
25 information and belief state, that Austin Healy, a Democrat, who  
26 is Veterans' Chairman for Nixon, is a member of the defendant  
27 Committee for the Preservation of the Democratic Party in  
28 California.

29 At no time have the California, Northern California or San  
30 Francisco Nixon for Governor Committees, or any one of them or  
31 any other official Nixon for Governor Committee or Committeeman  
32 repudiated the activities of the defendant Committee for the

1 Preservation of the Democratic Party in California, which this  
2 action seeks to enjoin.

3 The Nixon postcard attempts to cover the California Demo-  
4 cratic Council with a leftwing smear and further attempts to taint  
5 Governor Brown and other Democratic candidates with the same  
6 smear.

7 In three previous campaigns in the State of California in  
8 which Nixon has been involved, he imputed leftwing associations  
9 or sympathizers to his Democratic opponents.

10 Based on my knowledge and experience of politics in  
11 California, it is my opinion that this fraudulent scheme, namely  
12 the Nixon postcard, is also designed to divert attention from  
13 the support Richard Nixon and his fellow Republican nominees  
14 enjoy from the John Birch Society, its members and other extreme  
15 and unpopular rightwing groups.

16 Also based on such knowledge and experience, it is my  
17 opinion that thousands of Democratic voters who customarily read  
18 political literature casually will be deceived and misled by  
19 the Nixon postcard in the manner set forth in the complaint.

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I, the undersigned, say:

I am the declarant

in the above entitled or foregoing matter; the foregoing document is true of my own knowledge, except as to the matters therein stated on my information and belief, and as to those matters I believe it to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at San Francisco, California, on October 21, 1962



Roger Kent

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*Dear Fellow Democrat:*

This is not a plea for any candidate. This is to ask you: Are you aware of what has happened to our Party during the past four years? Many Democrats like ourselves are shocked over the domination of the Democratic Party by the CDC (California Democratic Council). Yet most Democrats are frankly revolted by the CDC leadership's objectives and viewpoint which have included:

- Admitting Red China into the United Nations
- Meratorium on U. S. nuclear testing
- Allowing subversives to speak on 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
- Refusal to bar Communists from the Democratic Party

These certainly are not the Democratic Party objectives. Yet, operating behind the Democratic Party screen, the CDC is directing the Party, is capturing and dominating Democratic candidates.

Our present Party ticket is composed entirely of CDC nominees, originally proposed, sponsored and handed to the Party by the CDC Convention in Fresno four years ago. Whether willingly or weakly, Governor Brown, who was accepted by the CDC and endorsed by them, has become their captive. His capitulation is evident in his statement to the press that he would veto any legislation damaging to the CDC. He told their convention in January, 1962, "The CDC is the strongest political organization in America." He calls it "my strong right arm." He says, "I am proud of my membership in the CDC."

Who are other nominees loaded on our Party by the left-wing CDC? Generally they are men either approving CDC objectives, or undistinguished, unprepared for high office or weak and unwilling to oppose the CDC.

The grave situation was demonstrated at the Democratic State Convention where CDC leaders forcibly prevented adoption of a simple resolution to bar Communists from the Democratic Party organization. After the defeat, a Party spokesman told the press, "If we refuse to ban Communists from the Democratic Party — it means we welcome them!"

As a Democrat — what do you feel we can do to throw off the shackles of this left-wing minority, now so powerful it can dictate the course of our Party?

Should we act now and in the time ahead, to reclaim our Party and restore Party leadership selection to the rank and file membership? Should we repudiate the arrogant assumption that free men dedicated to revered Democratic principles will blindly follow the dictates of those whose objectives are foreign to our own?

We believe our one great weapon is a passive weapon — simple refusal to go along with them. We can break the power of the CDC by refusing to elect their candidates. Or we can take acceptable Republicans — if we can find any. Whatever we do, in the name of the Democratic Party —

*Let's Not Deliver California to the CDC!*

Committee for the Preservation of the Democratic Party in California  
National Oil Bldg., 609 S. Grand, Los Angeles • Central Consular Bldg., 607 Market, San Francisco



TEAR OFF HERE - DO NOT MAIL AFTER OCTOBER 23, 1962



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LAW OFFICES OF  
DIBARA AND DIBARA  
SUITE 1000 4000 TOWER  
SAN FRANCISCO 9  
EXTENSION 8-8977

*A Communication  
of Extreme Importance*

**TO**

**CALIFORNIA DEMOCRATS**

*from the*

*Committee for the  
Preservation of the  
Democratic Party  
in California*

BULK RATE  
U. S. POSTAGE  
**PAID**  
SAN FRANCISCO, CALIF.  
PERMIT NO. 8092



EXHIBIT A

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ask you: Are you aware of  
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mocrats are frankly revolted  
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Yes, operating be-  
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DC nominee, originally pro-  
CDC Convention in Fresno  
for Brown, who was accepted  
their captive. His captiv-  
that he would veto any  
convention in January, 1967,  
in America." He calls it  
membership in the CDC."

Left-wing CDC? Generally  
undistinguished, unprepared  
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the Democratic State Con-  
vention of a simple resolu-  
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refuse to ban Communists  
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throw off the shackles of this  
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our Party and restore Party  
p? Should we repudiate the  
overed Democratic principles  
tives are foreign to our own?

positive weapon—simple  
the power of the CDC by  
acceptable Republicans—if we  
of the Democratic Party—

*a to the CDC!*

Democratic Party in California  
for 844-407 Market, San Francisco

YEAR OFF HERE - DO NOT MAIL AFTER OCTOBER 23, 1967

No  
Postage Stamp  
Necessary  
If Mailed in the  
United States



**BUSINESS REPLY MAIL**  
First-Class Permit No. 2361, San Francisco, Calif.

COMMITTEE FOR THE PRESERVATION OF THE  
DEMOCRATIC PARTY IN CALIFORNIA

Central Consular Building,

607 Market Street,

San Francisco 5, California

Postage  
Will Be Paid  
by  
Addressee

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PRINTED BY  
AND O'DONNA  
3 MILLS YERGEN  
SAN FRANCISCO 4  
3K-246879

EXHIBIT A

1 GERALD J. O'GARA  
2 O'GARA and O'GARA  
3 1200 Mills Tower  
4 San Francisco 4, California  
5 EXbrook 2-2677  
6 Attorneys for Plaintiffs

INDEXED PLFF	
INDEXED DEFT	✓
REGISTERED	✓
ASSIGNED TO DEPT. No.	
FEB 21 1962	

**FILED**

OCT 22 1962

MARTIN MONGAN, Clerk  
*[Signature]*  
Dist. Ct.

8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR  
9 THE CITY AND COUNTY OF SAN FRANCISCO

10 1031 DEMOCRATIC STATE CENTRAL COMMITTEE,  
11 ROGER KENT, individually and as a member  
12 and officer of the Democratic Party and  
13 Democratic State Central Committee and  
14 ELIZABETH RUDEL GATOV, individually and  
15 as Democratic National Committeewoman,

**526150**  
No.

16 Plaintiffs,

COMPLAINT FOR  
INJUNCTION, TEMPORARY  
RESTRAINING ORDER  
AND DAMAGES

17 801 vs.

18 COMMITTEE FOR THE PRESERVATION OF THE  
19 DEMOCRATIC PARTY IN CALIFORNIA, an unin-  
20 corporated association, JOSEPH ROBINSON,  
21 WILLIAM MARLIN, HARRY J. BOYLE, First  
22 Doe through Twentieth Doe, individuals,  
23 associations and corporations,

3792

24 Defendants.

395 ✓

25 I

26 Plaintiff Democratic State Central Committee, also known  
27 as the California Democratic State Central Committee, is the  
28 official committee of the Democratic Party, which numbers  
29 4,000,000 members in California. It is organized and brings  
30 this action in pursuance of the provisions of the Elections  
31 Code of the State of California. Plaintiff Roger Kent is now  
32 and at all times herein mentioned has been a citizen, resident,  
taxpayer and registered Democratic voter of the State of Calif-  
ornia, and vice-chairman and a member of the Executive Committee  
of the Democratic State Central Committee.

Plaintiff Elizabeth Rudel Gatov is now and at all times

LAW OFFICES OF  
O'GARA AND O'GARA  
SUITE 1200 MILLS TOWER  
SAN FRANCISCO 4  
EXBROOK 2-2677

1 herein mentioned has been a citizen, resident, taxpayer and regis-  
2 tered Democratic voter of the State of California and a member of  
3 the Democratic Party of California and national committeewoman  
4 from California on the Democratic National Committee.

5 Plaintiffs Roger Kent and Elizabeth Rudel Gatov bring this  
6 action in behalf of themselves individually and in their stated  
7 official capacities and in behalf of all registered Democratic  
8 voters and members of the Democratic Party situated similarly to  
9 themselves and members and officers, respectively, of the Demo-  
10 cratic State Central Committee and the Democratic National Com-  
11 mittee and statewide candidates of the Democratic Party at the  
12 November 6, 1962 General Election.

13 Defendants First Doe through Twentieth Doe, inclusive, are  
14 sued herein under fictitious names, their true names and capa-  
15 cities being unknown to plaintiffs and at such time when correct  
16 names, and capacities of said defendants have been ascertained,  
17 plaintiffs will ask leave of the Court to amend this complaint  
18 accordingly.

19 III

20 Defendants specifically named, if individuals, are residents  
21 of the City and County of San Francisco, State of California, and  
22 if associations or corporations are doing business and/or have  
23 their principal place of business in said City and County. Doe  
24 defendants are residents and/or are doing business or have their  
25 principal places of business in various counties of California.

26 IV

27 All the above-named defendants are engaged in a campaign  
28 attempting to elect Richard M. Nixon Governor of California.

29 V

30 Commencing on or about October 12, 1962, up to and including  
31 the present time, defendants and each of them as part of their  
32



1 campaign for Nixon, have wrongfully and unlawfully conspired  
2 to publish, post, mail, circulate and distribute and have pub-  
3 lished, posted, mailed, circulated and distributed to Democratic  
4 voters of San Francisco and elsewhere in California, more than  
5 5000 copies of the postcard pamphlet and/or folder attached  
6 hereto and marked Exhibit A and hereinafter referred to as the  
7 Nixon postcard. Unless restrained by this Court they will pub-  
8 lish, post, mail, circulate and distribute 1,000,000 additional  
9 copies of said Nixon postcard to Democratic voters in various  
10 counties of California.

11 The plan and purpose of defendants--which they have  
12 already carried out in part--is as follows:

13 They intend to confuse and have confused hundreds of  
14 Democratic voters so that said voters believe and will believe  
15 the following untrue statements and implications (among others)  
16 of said scheme:

17 (a) That the Democratic Party, or a qualified cam-  
18 paign committee thereof, is sending said voters the Nixon post-  
19 card and wishes them to fill out the poll contained therein  
20 and return it to a campaign headquarters of the Democratic Party.

21 (b) That the Democratic Party and the California  
22 Democratic Council are in opposition to each other.

23 (c) That the Democratic Party wishes said voters to  
24 send money for the use and benefit of the Democratic Party and  
25 its statewide candidates to the Committee to Preserve the Demo-  
26 cratic Party of California, Crocker-Anglo National Bank, One  
27 Montgomery Street, San Francisco, California.

28 (d) That the Democratic Party or an authorized  
29 Democratic campaign committee desires by the Nixon postcard to  
30 secure a poll of members of the Democratic Party answering  
31 questions relating to said party and its candidates.  
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The plan and purpose of defendants--already partly executed--is to circulate and publicize the results of such alleged poll of Democratic voters during the last week preceding said General Election on November 6, 1962, in such manner as to deceive and confuse Democratic voters and deter them from voting for Governor Brown and other Democratic candidates for whom they would otherwise vote.

Unless restrained, said plan and scheme is calculated to, has and will, confuse and deceive many thousands of Democratic voters as aforesaid.

Defendants' said scheme is timed so that it will be impossible for plaintiffs before said election to properly and adequately inform Democratic voters concerning the true facts of the said Nixon postcard, or to prevent the taking of said poll or to stop collection of funds as stated above.

Defendants' scheme is timed so that it will be impossible for plaintiffs to secure before said election any final judgment for damages or injunction restraining defendants from carrying out said scheme.

Hence, any final judgment or injunction against defendants would necessarily be made and entered after said election and would be ineffectual in protecting plaintiffs and the Democratic Party and its voters and candidates.

In amplification of the above, plaintiffs allege that defendants' said acts and conduct are wrong and illegal

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in the following respects:

(a) Plaintiffs are informed and believe and on the basis of such information and belief allege that said Nixon postcard has been instigated, written, financed and published by the supporters of Nixon and their agents. In this connection, plaintiffs allege on such information and belief that the two mailing permits printed on Exhibit A are in truth and fact the numbers of the mailing permits for defendant Joseph Robinson and other professional and amateur supporters of the Nixon campaign for Governor.

Said Nixon postcard purports and attempts to represent to Democratic voters that it is being published, mailed, circulated and distributed by an established Committee for the Preservation of the Democratic Party in California and is designed to impress Democratic voters with the idea that said alleged Committee for the Preservation of the Democratic party is stable, reputable and well-established, whereas in fact the said Committee has ~~just~~<sup>only</sup> been recently established in small temporary quarters in San Francisco for the sole purpose and objective of injuring the Democratic Party and its nominees and electing Republicans.

Said Nixon postcard is a desperate, last minute <sup>supporters</sup> attempt by Nixon ~~to~~ avert impending defeat in his attempt to become Governor of California and has been deliberately delayed until this time to make it difficult, if not impossible, for the plaintiffs and the Democratic Party and its candidates to adequately reply to and refute the implications of said Nixon postcard.

(b) The statements contained in said Nixon postcard are false and misleading in the following particulars:

- (1) In the particulars set forth in sub-paragraph (a) above.
- (2) The statement "...Governor Brown... has become

1 their (referring to the California Democratic Council) captive"  
2 is untrue. Governor Edmund G. (Pat) Brown is independent in  
3 all his actions and judgments and is not the captive or  
4 subservient to any individual, organization or group. His  
5 actions are motivated solely by his determination to do what  
6 is best for the people of California and the State of California,  
7 as his record shows.

8 (3) The Nixon postcard alleges that the Democratic  
9 Party is dominated and directed by the CDC, and that the CDC  
10 is capturing and dominating Democratic nominees, the Democratic  
11 State Convention, and leadership of the Democratic Party. Each  
12 and every such statement is false and fraudulent.

13 On the contrary, the Democratic Party is directed  
14 and dominated by no other individual, group or organization.

15 In fact, the State Convention of the Democratic  
16 Party is made up of nominees selected by the voters in free and  
17 open primary elections. The Democratic State Central Committee  
18 is made up of such nominees and their appointees and the  
19 Chairmen of the 58 Democratic County Central Committees. Such  
20 chairmen are duly elected by the members of their respective  
21 committees who in turn are elected by the rank and file  
22 Democratic voters. The officers of the Democratic State  
23 Central Committee are elected by members of the committee. The  
24 nominees of the party and its officials are therefore directly  
25 selected by the rank and file Democratic voter and in the case  
26 of officers of the Democratic Party by representatives of the  
27 rank and file voters.

28 All of these facts are well known to defendants  
29 and each of them, and statements in said Nixon postcard to the  
30 contrary are wilfully false and deceitful and made in aid of a  
31 conspiracy to injure the Democratic Party in an attempt to elect  
32 Nixon Governor of California.

1 (4) The statement that the CDC can "dictate the course  
2 of our (the Democratic) party" is untrue. The fact: All  
3 Democratic candidates referred to in the Nixon postcard have  
4 been selected by the party in free and open primary elections.

5 (5) The Nixon postcard calls the California Democratic  
6 Council the "left wing CDC." This is untrue. In fact, the CDC  
7 is an unofficial and independent group of 70,000 loyal and  
8 patriotic Americans and Californians.

9 (6) The Nixon postcard misrepresents and distorts the  
10 alleged objectives and viewpoints of CDC leadership. It is un-  
11 true in that it alleges that the Democratic Party is "handcuffed"  
12 by the CDC. In fact, the policies and objectives of the Demo-  
13 cratic Party are set by the official platform adopted at the  
14 State and National conventions of the Democratic Party and in  
15 the statements and actions of President John F. Kennedy and  
16 Governor Brown.

17 (7) The Nixon postcard purports to be a poll, to  
18 sample the opinion of California Democrats. It is, in fact,  
19 intended only to confuse and mislead Democrats. Any replies  
20 secured by said alleged poll would have no value or validity in  
21 showing the opinion of members of the Democratic Party. On the  
22 contrary, the questions in said poll are so framed and worded  
23 that the answers can serve only the purpose of assisting Nixon  
24 and misrepresenting the position of Governor Brown and other  
25 statewide Democratic candidates.

26 (8) The meaning and purport of the entire Nixon  
27 postcard is the false statement and implication that the CDC is  
28 left wing, which it is not, and that the Democratic candidates  
29 supported by the CDC are left wing, which they are not. On the  
30 contrary, all such Democratic candidates are good and loyal  
31 Americans devoted to the welfare of their nation and state.  
32

1 (c) The publication, mailing, circulation and  
2 distribution of said Nixon postcard is a violation of the  
3 provisions of the Elections Code of the State of California  
4 in the following respects:

5 (1) It does not bear on its face the name  
6 and address of the printer and publisher as required by  
7 the Elections Code Section 11592.  
8

9 (2) It does not show in a conspicuous place or  
10 in any place in said pamphlet the name and address of the  
11 printer and either the name and address of the Chairman  
12 and Secretary or the names and addresses of at least two  
13 officers of the political or other organization issuing  
14 it or the name and residence address, with the street and  
15 number, if any, of some voter of this State who is  
16 responsible for it, as required by Elections Code Section  
17 12047.  
18

19 All said defendants have caused to be  
20 written, printed, posted and distributed said Nixon  
21 postcard which is designed to injure and defeat the named  
22 Democratic candidates for election by reflecting upon  
23 their personal character and political action.

24 (3) Defendants include as part of the name of the  
25 alleged committee on the Nixon postcard the name of the Democrat  
26 Party and are by said Nixon postcard directly and indirectly  
27 soliciting funds upon the representation, express and implied  
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1 that the funds are being solicited for the use of the Democratic  
2 Party. Said defendants have not previously or at any time or  
3 at all obtained the written consent of any of the following:  
4 National Committeemen or committeewoman from California, chair-  
5 man of the State Central Committee, Democratic State Central  
6 Committee, Executive Committee of the State Central Committee,  
7 or the Executive Committee of any Democratic County Central  
8 Committee. All such officials of the Democratic Party and its  
9 said committees denounce and condemn said Nixon postcard and  
10 the false, misleading and scurrilous statements therein as set  
11 forth herein. In truth and fact said funds are being solicited  
12 for the purpose of injuring the Democratic Party and its  
13 candidates. All such conduct is in violation of Elections Code  
14 Section 12301.

15 (d) The acts and conduct of the defendants in circulariz-  
16 ing members of the Democratic Party for votes and funds through  
17 said Nixon postcard constitutes untrue and misleading advertis-  
18 ing in that defendants are attempting to secure money by false  
19 representations as set forth herein. All representations  
20 alleged in this complaint to be false, misleading or fraudulent  
21 are and at all times herein mentioned have been known to said  
22 defendants to be false, misleading and fraudulent and have been  
23 made for the purpose of deceiving said Democratic voters and  
24 contributors. Said Nixon postcard and said statements therein  
25 will damage plaintiffs, the Democratic Party, its members and  
26 candidates by making it more difficult and more expensive for  
27 the plaintiffs to inform voters of the falsity of said state-  
28 ments and inform them of the true facts concerning Governor  
29 Brown and other Democratic candidates and the CDC. and by inducing  
30 many Democratic voters not to support said Democratic candidates.  
31 Unless restrained, said defendants, by means of the  
32 false and misleading statements in said Nixon postcard, will  
collect substantial sums of money which will be spent to oppose

1 and injure Governor Brown, other endorsed candidates of the  
2 Democratic Party and the Democratic Party itself.

3 VI

4 Plaintiffs incorporate herein by reference the declaration  
5 of Roger Kent, filed concurrently with this complaint.

6 VII

7 On or about October 20, 1962 and at various other times  
8 between that date and the present time, plaintiffs requested  
9 and demanded that defendants and each of them refrain from  
10 engaging in the wrongful and unlawful acts as above alleged but  
11 said defendants and each of them have refused to so refrain  
12 and have threatened to continue such conduct unless enjoined  
13 and restrained from performing said acts by this Court.

14 Because of the defendants' acts and threatened acts, as  
15 hereinabove stated, plaintiffs have already sustained and  
16 will sustain great and irreparable injury in that said Nixon  
17 postcard will deceive and mislead Democratic voters, all as  
18 stated herein and will tend to lead said Democratic voters to  
19 refrain from voting for said Democratic candidates and to vote  
20 for Republican candidates in the mistaken belief that said  
21 Democratic candidates do not truly represent the objectives of  
22 the Democratic party when in truth and fact said candidates and  
23 each of them named in said Nixon postcard truly represent the  
24 objectives and principles of the Democratic party.

25 Said acts and threatened acts of said defendants further  
26 will lead Democratic voters so deceived to contribute money to  
27 said defendants in the mistaken belief that they are assisting  
28 the Democratic Party and will lead said Democratic voters to  
29 refrain from contributing money to said Democratic Party for  
30 the election of said Democratic candidates and lead said  
31 Democratic voters to contribute money for the election of  
32 Republican candidates.



1 It will be practically impossible for plaintiffs to  
2 ascertain the exact amount of damage which plaintiffs and the  
3 Democratic Party and its members and candidates will sustain  
4 through the commission and continuance of said acts if said  
5 defendants are not enjoined therefrom.

6 Further, said defendants are unable to respond in damages  
7 adequately. Because of the location of defendants and their  
8 agents in various widely separated parts of California, includ-  
9 ing Los Angeles County, a multiplicity of suits would be  
10 necessary to secure damages. By reason of the fact that said  
11 election will take place on November 6, there would be no  
12 adequate time within which to secure a final judgment  
13 sufficiently in advance of said election to fully inform  
14 Democratic voters of the falsity and scurrility of said Nixon  
15 postcard and the statements and implications therein. Any final  
16 judgment after November 6 would be ineffectual and a preliminary  
17 injunction after November 6 will be of vastly less value than a  
18 temporary restraining order immediately. For all said reasons  
19 plaintiffs cannot be fully compensated in damages and are  
20 without adequate remedy at law.

21 VIII

22 By reason of the acts of defendants above alleged, including  
23 Kent and Gatov, individually and representatively, and the  
24 Democratic State Central Committee have already been damaged  
25 in the sum of \$100,000 at least and if said acts are permitted  
26 to continue will be further damaged in an amount difficult, if  
27 not impossible, for plaintiffs to ascertain. Therefore,  
28 plaintiffs will ask leave to amend this complaint to state any  
29 such additional and further amounts of damages as may have been  
30 sustained by them until a rendition of final judgment and decree  
31 herein.

32 All the actions and conduct of the defendants above named  
and each of them have been, are and will be willful, fraudulent,  
wanton and oppressive. By reason thereof plaintiffs are entitled

1 to and hereby demand additional and exemplary damages in the  
2 further sum of \$200,000.

3 WHEREFORE, plaintiffs pray judgment as follows:

4 1. For a temporary restraining order, preliminary injunc-  
5 tion and permanent injunction enjoining and restraining the  
6 defendants, their agents, servants, employees and/or persons  
7 acting in consort and participation with them, and each of them,  
8 from doing or causing to be done, directly or indirectly any of  
9 the following acts or things:

10 (a) Publishing, posting, mailing, circulating or  
11 distributing any of said Nixon postcards in the form of Exhibit  
12 A or in any form substantially similar to said Exhibit A. or any  
13 results from any poll conducted by means of Exhibit A.  
14 (b) Soliciting or collecting money from any Demo-  
15 cratic voters by using directly or indirectly said Nixon  
16 postcards or the substance thereof. In this connection plaintiff  
17 pray for an order that any funds heretofore collected by said  
18 defendants for the purpose of, or as a result of, or in  
19 connection with publication, posting, mailing, circulating or  
20 distributing said Nixon postcard be impounded until the further  
21 order of the Court and the defendants ultimately be required to  
22 account for said funds and return them to contributors.

23 2. For an order of this Court directing that defendants  
24 and each of them show cause, if any, they have at a time and  
25 place to be fixed by the Court, why a preliminary injunction  
26 should not issue as prayed for hereinabove.

27 3. For a judgment for damages against the defendants and  
28 each of them in the sum of \$500,000 and for such further amount  
29 of damages as may be sustained by plaintiffs to the rendition  
30 of final judgment herein.

31 4. For their costs of suit herein.  
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5. For such other and further relief as may be deemed just and proper.

Dated: October 20, 1962

Gerald J. O'Gara  
Gerald J. O'Gara

O'Gara and O'Gara  
O'Gara and O'Gara

Attorneys for Plaintiffs

I, the undersigned, say:

I am one of the plaintiffs in the above entitled and foregoing complaint. The foregoing complaint is true of my own knowledge, except as to the matters therein stated on my information and belief, and as to those matters I believe it to be true. I execute this declaration individually and as Vice-Chairman of the plaintiff Democratic State Central Committee.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at San Francisco, California, on October 21, 1962.

Roger Kent  
Roger Kent

In view of the increasing domination of the Democratic Party by the CDC (California Democratic Council), we are anxious to obtain an opinion sampling of California Democrats. Please fill out and mail before October 23.

BULK RATE  
U. S. POSTAGE  
**PAID**  
SAN FRANCISCO, CALIF.  
PERMIT NO. 8092

1. The CDC Federation is primarily favored
- |  |                          |                          |
|--|--------------------------|--------------------------|
| Admitting Red China into the United Nations                | Yes                      | No                       |
| Moratorium on U. S. nuclear-testing                        | <input type="checkbox"/> | <input type="checkbox"/> |
| Allowing subversives the freedom of college campuses       | <input type="checkbox"/> | <input type="checkbox"/> |
| Abolition of State and Federal loyalty oaths               | <input type="checkbox"/> | <input type="checkbox"/> |
| Abolition of the House Committee on Un-American Activities | <input type="checkbox"/> | <input type="checkbox"/> |
| Foreign aid to countries with Communist governments        | <input type="checkbox"/> | <input type="checkbox"/> |
| Complete national disarmament as ultimate goal             | <input type="checkbox"/> | <input type="checkbox"/> |
| Refusal to bar Communists from the Democratic Party        | <input type="checkbox"/> | <input type="checkbox"/> |

2. Can California afford to have a Governor indebted to the CDC—who has stated he will veto any legislation damaging to the CDC—who calls it "my strong right arm"—who declares, "I am proud of my membership in the CDC" . . . . .

Yes  No

3. What course of action should be taken by independent Democrats who don't belong to the CDC and want no part of it?
- |  |                          |                          |
|--|--------------------------|--------------------------|
| Demand that Democratic candidates disclaim and abandon the CDC   | <input type="checkbox"/> | <input type="checkbox"/> |
| Refuse to support candidates who don't renounce the CDC  | <input type="checkbox"/> | <input type="checkbox"/> |
| Support a Republican candidate rather than sell out the Party and the State Government to CDC objectives | <input type="checkbox"/> | <input type="checkbox"/> |

4. Who in your opinion will win in November?
- |                                      |                                   |                                      |
|--------------------------------------|-----------------------------------|--------------------------------------|
| <b>Governors:</b>                    | <b>Secretary of State:</b>        | <b>U. S. Senate:</b>                 |
| Brown <input type="checkbox"/>       | Rose <input type="checkbox"/>     | Richards <input type="checkbox"/>    |
| Nixon <input type="checkbox"/>       | Jordan <input type="checkbox"/>   | Kuchel <input type="checkbox"/>      |
| <b>U. S. Congress:</b>               | <b>Committees:</b>                | <b>State of Public Institutions:</b> |
| Anderson <input type="checkbox"/>    | Crenston <input type="checkbox"/> | Richardson <input type="checkbox"/>  |
| Christopher <input type="checkbox"/> | Reagan <input type="checkbox"/>   | Reafferty <input type="checkbox"/>   |
| <b>Attorney General:</b>             | <b>Trustees:</b>                  |                                      |
| McDonnell <input type="checkbox"/>   | Betts <input type="checkbox"/>    |                                      |
| Coakley <input type="checkbox"/>     | Bustard <input type="checkbox"/>  |                                      |

If you, too, feel it important to preserve our Democratic processes and cut off the CDC handoffs, please send a contribution today to the Treasurer, Committee to Preserve the Democratic Party in California, Crocker Angle Bank, One Montgomery Street, San Francisco, California. And please write us your views.

Committee for the Preservation of the Democratic Party in California

A Communication  
of Extreme Importance  
TO  
CALIFORNIA DEMOCRATS  
from the  
Committee for the  
Preservation of the  
Democratic Party  
in California