Joseph L. Alioto

CHANGING THE FACE OF SAN FRANCISCO:
MAYOR 1968-1976, AND ANTITRUST TRIAL LAWYER

With an Introduction by
John De Luca

Interviews conducted by
Carole Hicke
in 1991

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Alioto, Joseph L. (1916-1998) San Francisco mayor, attorney


Childhood in North Beach and education, Catholic University Law School; early trial lawyers John Taaffe, Garrett McInerny; practice with the Antitrust Division, U.S. Department of Justice: wine industry cases, Jacuzzi case, American Football League and National Football League cases, Rice Growers Association; terms as San Francisco Mayor: campaigns, issues of redevelopment, housing, school busing, Transamerica Pyramid, Embarcadero Center, arts, music parks for the city, riots, student protests.

Introduction by John De Luca, President, Wine Institute.

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I first met Joseph L. Alioto in late Spring 1967 at a luncheon arranged for the two of us by Benjamin Swig, famous owner of the Fairmont hotel chain. Following two years of service in Washington, D.C., as a White House Fellow and international affairs assistant to Senator Frank Church of Idaho, I had returned to San Francisco with my wife Jo and new daughter Gina to settle in the Bay Area. Mr. Swig thought I would find fellow Sicilian Joe Alioto a man of impressive intellect and personal dynamism. "He is a man of sophistication and culture with a great mind," I remember him telling me. He's a renowned anti-trust attorney, but he also serves as counsel to the rice growers and vintners and knows real estate. "With your backgrounds the two of you could hit it off and become friends."

It turned out by a most unpredictable succession of events, triggered shortly thereafter by the sudden death of State Senator Eugene McAteer who was running for Mayor of San Francisco, that within six months of our first encounter Joe Alioto had captured that post himself in a whirlwind campaign. He offered to me, and I accepted, the appointment as Chief of Staff, an office subsequently elevated to that of Deputy Mayor. Our first hour of crab legs and chardonnay became the genesis of a wild piece of shared history as we and the City would confront the turbulent years of urban crisis that characterized the period 1968-1976.

The three decades that have since passed cannot dull nor diminish the powerful memories of Joe Alioto's tenure as mayor. From the very outset his physical impact was felt from the streets of San Francisco to the Oval office in Washington, D.C. His bull shoulders and chest, balding head, charismatic poise and presence made you take notice. In 1968 both President Lyndon Johnson and Vice President Hubert Humphrey, men of no little self-confidence, were attracted by Joe's raw magnetism. On about our third visit that spring LBJ called in Joseph Califano, his savvy domestic affairs chief, and asked, "What apples do we have in the bushel for the good mayor?" What can we do for this good friend of ours?" Within weeks frozen federal funds were dislodged and sent to City departments. The Highway 280 dispute between the City and State, over the placement through the Crystal Springs watershed in San Mateo County, was settled in favor of San Francisco when the White House weighed in. The President had instructed the Department of Transportation, "We're paying 92% of the bills, so put the damn freeway where the Mayor of San Francisco says it should go."

Vice President Humphrey's political antenna was even more activated. During the hotly contested primary battle between Senator Robert Kennedy and Humphrey, Joe forcefully endorsed the Vice President without prodding or inducement. In a series of press interviews and addresses to political audiences Joe was both captivating and eloquent — the hallmark of his entire public speaking career. Humphrey and his
advisors took note, and given Joe’s West Coast roots and Eastern ethnic and religious appeal, serious consideration was given him as a potential running mate. This possibility was strongly pursued all the way to the Chicago convention, with no less a figure as Lawrence Spivak of “Meet the Press” predicting Joe’s selection. In the final analysis, the Humphrey inner circle objected that Joe’s limited term — barely seven months in office — would negate their planned attack on Nixon’s V.P. choice, Spiro Agnew, who was equally unknown to the American public. Humphrey chose the very talented and experienced Senator Edmund Muskie for the 1968 ticket, but asked Joe to give the principal nominating speech at the Convention and to chair “All Americans For Humphrey” in the national campaign. Joe discharged both roles admirably, and in the autumn months as Nixon’s big lead almost vanished, the campaign staff took to calling Joe “our secret weapon” as he gave stirring speeches to enthusiastic crowds across America.

At home there was no guessing about Joe’s executive command of his duties. In that first year, and reinforced throughout his two terms, the signature of his style and substance was hands on, face-to-face leadership. Whether it was the emotions set loose by the assassinations of Martin Luther King and Robert Kennedy, the student riots at San Francisco State University, the activism of the Black Panthers, the terrorism of the Zebra killings, or the forced busing of black and Asian students cross-town, Joe Alioto touched every base in San Francisco to make sure every neighborhood took ownership of the necessity for peaceful assembly. He went to the police and fire stations to address personally our security forces. He used television and press conferences extensively with direct appeals for calm. His message was never tongue-tied. Constitutional rights would be strictly protected. But as he told our (three) police chiefs: “No one has a constitutional right to throw a rock. Arrest the first S.O.B. who lifts his arm.”

His language could be tough and pointed but always soaring. As Ben Swig had observed, Joe was truly a man of letters. On plane trip after plane trip the two of us carried armfuls of books about everything. He taught me to admire the works of the Brownings — he periodically gave lectures to the Elizabeth Browning Society. Matthew Arnold’s reflections on life often were inserted in “state of the city” messages. Teilhard de Chardin was so influential in his thinking that part of the funds we negotiated with Clint Eastwood for the film “Dirty Harry” Joe used to underwrite a worldwide conference on Chardin, televised live on local public TV.

His love of opera was very pronounced. Puccini’s “O’Mio Bambino Caro” from Gianni Schicchi was a favorite tune he would hum when he needed to unwind. He played the violin with skill and enthusiasm. Though the occasions were rare he surprised unsuspecting audiences with classical renditions that he obviously cherished. His very early visit with Avery Brundage in Chicago clearly saved the Asian Art Collection for San Francisco. (When Joe and I walked into his hotel suite we were confronted by giant blowups of telegrams from Los Angeles officials promising Brundage a better home for his exquisite collection.)
Though probably forgotten today, Joe was the strongest advocate for the Performing Arts Center (Louise K. Davies Hall) and creatively took $5 million dollars of federal community action grants to get the project off the ground. He breathed new life into the San Francisco Film Festival by giving strong support to George Gund and Claude Jarmon and finding the funds and the architect to construct a new home for the festival within the magnificent Palace of Fine Arts. And he received inspiration from the difficulties Phil D'Antoni encountered filming “Bullitt,” in the days before Joe’s inauguration, to expedite permits and clearances with a one stop procedure housed in my office. The cornucopia of film jobs as extras that flowed to Hunters Point and Chinatown, a swimming pool in Hunters Point, new equipment for the Fire Department (“Towering Inferno”) the foundation for “Streets of San Francisco” and numerous subsequent TV series and films on San Francisco location, all stem from Joe Alioto’s sense of priorities that culture and arts are integral to the life of a vibrant community.

That sense was reinforced by the energy he took back from the citizens of San Francisco by his open and accessible administration. Everyday we reviewed his calendar of events it appeared he congenitally did not know how to say “no” to the invitations that poured in. He accepted just about everything: every luncheon group, every convention crowd, and every ethnic and civic club. On his constant visits to neighborhoods and restaurants Joe was an exuberant and affectionate greeter of all in his path. In turn he was peppered by responsive commuters with salutations of “Hi Joe.” “We’re with you Joe,” signs of thumbs up. All bars and restaurants in the City made sure there was a bottle of the Italian bitters drink “Campari” that Joe loved to order. Even with political opponents who had not backed him he had a disarming way of imparting tough lessons when they waited for him at his favorite haunts and asked for city jobs. He would grin and say with no animosity: “You can’t cash losers’ tickets at winners’ windows,” or “With all the friends I have, I can never get to you.”

The post and the man seemed made for each other, and they were. What can only be speculated today is the course of Joe Alioto’s mayoralty, and the history of California, had high profile tribulations not intruded on his personal and family life. On September 9, 1969, Look magazine, in a desperate attempt to boost falling circulation, put out a scurrilous cover edition proclaiming that Joe Alioto was a lawyer for the Mafia. Joe fought back with a vigorous libel suit against Cowles Communications which years later he eventually won, but the damage inflicted on his image, time and energies was huge, and things would never be the same. Reflecting the American propensity for political careers being built by calculated attacks on high visibility public figures, Washington State officials soon brought a civil suit alleging that Joe, as a private anti-trust lawyer, had given a referral fee to the previous Attorney General regarding Columbia River hydro electric generators. Within a year, Richard Nixon’s Department of Justice, using much the same Washington State facts, brought a grand jury criminal indictment – ultimately thrown out – against Alioto, in a gross abuse of the federal “anti-racketeering” laws. Joe’s one liner to the press calling the action “an 18 carat fake” still resonates in my mind decades later. The invisible hand of political destiny suddenly threatened to engulf our Administration in three high profile court proceedings that singularly and collectively threatened to ruin his name and his family’s reputation forever.
In his private moments Joe saw matters even more starkly, “It’s not just my name they’re after. They’re after me. John Mitchell (Nixon’s Attorney General) wants me in jail.” A few years later Joe had the satisfaction of being one of the first to bring to Senator Sam Erwin’s attention the outline of what became known during the Watergate hearings as the “plumbers unit.” But the immediate task at hand was winning separate libel, civil and criminal suits, and running the city effectively to win re-election in November 1971. “That’s the jury I want passing judgment on me,” he would say, “the people who know me best.”

His clear victory at the polls that year, while still under indictment and against a field that included then Supervisor Dianne Feinstein, was a personal vindication that he truly savored. Before a cheering crowd who had remained fiercely loyal during Joe’s time of troubles he gave voice to his pent up feelings, “Not Aristotle, not Shakespeare, not Churchill said it better than Jackie Gleason. How sweet it is!” This spark of genuine satisfaction re-ignited the flagging spirits of many in the Alioto team who, while supportive, had the shadow of electoral defeat that needed to be removed.

During his second term (1972-1976) Joe kept a stronger eye on his legal problems but empowered us to go all out on department matters. The role of my office was to make sure he had ultimate say on all mayoral policy decisions. We concluded open space agreements that protected over 25,000 acres of our watershed properties in San Mateo from development (still today one of the great legacies of his years in office). Joe resisted daily barbs from Herb Caen that we were “Manhattanizing” San Francisco as the administration promoted economic growth to ensure jobs and minority and social progress – a defining theme of the Alioto years. Especially nasty were the slings and arrows from Herb regarding the Trans America Building which Joe personally pushed in the face of the objections by our Planning Department. In light of the fact that today that building is viewed as a signature symbol of the new San Francisco it is noteworthy to remember Alioto’s rebuttal to the charge that it was only a “look at me” high-rise: “Who says the rectangle should have a monopoly on our skyline? Anybody ever hear of the pyramids?”

By 1973-74, Joe’s exceptional negotiating skills in settling difficult city strikes – there were some thirty in his two terms – and his strong and decisive handling of threats to urban safety and security, especially overcoming the near panic and vigilantism that surrounded the Zebra killings, resurrected many of the original voices of 1969-70 that urged him to run for Governor of California. The pledges of financial and grassroots support and endorsements were not as persuasive in his decision to go forward, as his inner confidence that he could promote the vision of growth and rebirth to a revitalized California.

Yet it soon became very evident that the cumulative weight of the unrelenting stress on him and his family had extracted an unforgiving toll. His wife of over thirty years, Angelina, disappeared for almost two weeks on her private “tour of the Missions” which put in public relief the strains on their marriage which soon ended in divorce. The national media coverage of the pain inflicted on political spouses, together with the
lingering baggage of the *Look* article and the civil and criminal proceedings, distracted dramatically from Alioto's stellar record as chief executive of a major American city. In the democratic primary of 1974 Alioto lost to Jerry Brown, as he and Speaker Bob Moretti split the labor and centrist vote.

Joe never looked back and threw himself forcefully in advocating his central theme of social progress through economic growth. He expanded further his watershed appointments of talented women, African-Americans, Hispanics and Asians in positions of power and influence on City Commissions and management posts. He pressed the labor unions for greater minority inclusion. And, synthesizing all his skills and values, in his last year in office in 1975, he kept an unprecedented police and fire strike from tearing apart the political, economic and social fabric of San Francisco life. Newly elected Governor Jerry Brown was edging toward sending in the national guard to enforce order in the streets. His chief of staff, Gray Davis, and I consulted by the hour to maintain clear lines of communication. With claims and threats flying from all sides Joe, in a remarkable display of personal courage to avoid chaos and strife, invoked emergency powers to conclude a responsible agreement with the police and firefighters. He knew he would provoke citywide criticism from a legitimately outraged Board of Supervisors and citizenry, upset over any negotiations with public forces sworn to uphold the law and safety. But his actions defused the mounting crisis and the specter of city and state units confronting one another.

That major event embodied Joe Alioto’s philosophy on the use of public office. Executive power couldn’t be stored for personal gain. Popularity couldn’t be achieved at the expense of the public good. Time after time, when he could have escaped controversy by calculated passivity, he instead used up his reservoir of goodwill to assure full civic debate (e.g. the U.S. Steel Building that didn’t get built; the Embarcadero Center that was; the redevelopment and housing fights with tenants and lawyers, etc.). Joe Alioto viewed his tenure as part of a continuum of service, laying the foundation for those who followed, to advance a larger historical goal of social and cultural pre-eminence for the city he loved. Every night, as he walked down the long narrow corridor that exited our office, he would salute by name the portraits of his favorite previous mayors that lined the walls. He knew everyone’s core history and contribution (good or scandalous), and he alternated praise with witticisms or old Italian proverbs about human frailties. As hopefully will be gleaned from reading his history in his own words, his place in the Mayoral Hall of Fame will be viewed by generations to come as one of remarkable service, dedication and passion. At a time of true peril, when cities burned across the land, he guided San Francisco’s destiny with a sure hand to assure her place as a flourishing world class community.

September 1, 1999
San Francisco, California

John A. De Luca
President & CEO
Wine Institute
Joseph L. Alioto was a true Renaissance man. Wide-ranging as his interests were, his knowledge, abilities, and achievements matched the diversity of those interests. He was a man who conducted with charm and panache his several careers as lawyer, mayor, banker, businessman. His life is a study of accomplishments, often in spite of great obstacles.

Born and raised in the North Beach section of San Francisco populated by many of Italian ancestry, Mr. Alioto received an excellent education, especially in classical literature, from the Christian Brothers at Sacred Heart High School and St. Mary's College. His favorite occupation as a boy was to go down to the old Hall of Justice nearby to sit in the courts and listen fascinated to such famous trial lawyers as Garret McEnerney, John Taafe, and Theodore Roche. He knew from early days that he wanted to follow in those footsteps.

Graduating from Catholic University Law School in Washington, D.C., Mr. Alioto first worked for the Justice Department, Antitrust Division, and went on from there to establish a nationally known private antitrust practice.

In 1968 Alioto took what he called a "sabbatical" to become mayor of San Francisco. He served two terms, leaving the office in 1976. During those years of turmoil and change, his administration impacted the city enormously, quelling riots, supporting parks and cultural institutions, and making architectural-planning decisions that changed the city's skyline as well as its landscape.

Mr. Alioto continued his antitrust law practice for many years after he left the post of mayor. The oral history was begun in 1991 as part of a volunteer oral history program of the Ninth Judicial Circuit Historical Society to document the legal history of the Western United States. As coordinator of the society's oral history program and the legal history advisor for the Regional Oral History Office, I had been conscripted to give a workshop on oral history methods to volunteers, mostly lawyers and judges, a willing but over-busy group. Joseph Alioto, known for his electrical price-fixing cases, film-industry antitrust litigation, and historic cases involving famous sports teams, was a top priority for an oral history.

At the behest of Chet Orloff, then director of the Ninth Judicial Circuit Historical Society, I agreed to interview Mr. Alioto. The interviews took place on January 18 and 30, and March 4, 13, 20, and 25, 1991, in his law offices high above San Francisco's downtown. He often went to the window during the sessions to point out visible sites of his childhood in North Beach. Before and after the interviews, he talked animatedly of his current legal cases. An outline for each interview
was prepared and sent to him, but his energy and enthusiasm often outran
the bounds of the suggested topics. His erudition and enthusiasm for
life—people, poetry, the arts, and his city—come through clearly in
the oral history.

The tapes of the interviews were transcribed in Mr. Alioto's law
offices. The draft, lightly edited by me, was sent to Mr. Alioto in
1992. He did not return the transcript, but he did not forget about it.
Time passed and Joseph Alioto remained busy with newsworthy cases. In
1997, Mrs. Willa Baum, head of the Regional Oral History Office, revived
the matter of the uncompleted oral history. She talked with Mayor
Alioto by telephone about the possibility of completing the processing
of the transcript. He told her he had read it through and approved it,
and thought he had returned it, but it was never received. A search was
made for his reviewed copy, but it was not found. Nonetheless the
Regional Oral History Office forged ahead, first arranging a joint
project among the Ninth Judicial Circuit Historical Society, originator
of the project, the Regional Oral History Office to finish it, and the
California Historical Society, which agreed to raise the funding for
completion. By this date Mr. Alioto was unwell and not up to reviewing
the transcript again. But he did want to be interviewed once more in
order to add a few things to his previous interviews. I met with him on
January 16, 1998, and he summarized some points he made before. [See
appendix] He died less than two weeks later on January 29, 1998, at the
age of eighty-one. After his death, his wife, Kathleen Alioto, reviewed
another copy of the draft transcript and made a few corrections.

I want to thank most sincerely for their cooperation Bradley
Williams, present director of the Ninth Judicial Circuit Historical
Society, and Michael McConle, head of the California Historical Society.
Special thanks go also to John De Luca for the introduction and to
Gabrielle Morris, who interviewed Mr. De Luca for the introductory
essay. And finally, we are indeed grateful to Kathleen Alioto and the
staff in Mr. Alioto's office for their contributions in completing the
oral history.

The Regional Oral History Office was established in 1954 to
augment through tape-recorded memoirs the Library's materials on the
history of California and the West. Copies of all interviews are
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Willa K. Baum, Division Head, and the administrative direction of
Charles B. Faulhaber, James D. Hart Director of The Bancroft Library,
University of California, Berkeley.

Carole Hicke, Interviewer/Editor

June 1999
Regional Oral History Office
The Bancroft Library, University of California, Berkeley
INTERVIEW WITH JOSEPH L. ALIOTO

I  BACKGROUND

[Interview 1: January 18, 1991]  

Growing up in San Francisco

Hicke:  We're just going to start with some of your background.

Alioto:  Okay.

Hicke:  And I wanted to ask first about your grandparents.

Alioto:  First of all I would like to say that one has to be careful about nostalgia. Somewhere along the line I read a heroic couplet. Let's see if I can remember it. "Nostalgia sometimes plays some funny tricks and truth and memory don't always mix."

Hicke:  That's wonderful.

Alioto:  The other thing is that nostalgia implies a certain living in the past. With me at least, my practice is more active, more interesting than it has ever been, but I like to look at the past, the present, and the future as kind of a continuum, that is one unit, and it's really in that spirit that I'm approaching this thing. My father was born in Sicily, came here at ten years of age and with his brothers established Fishermen's Wharves, not only here in San Francisco, but in Monterey and Santa Cruz and Fort Bragg and Eureka as well.

Hicke:  Was he a fisherman?

Alioto:  The family were. The family were fishermen. My grandfather was a fisherman in Sicily in a little town called Sant'Elia about sixty

1### This symbol indicates that a tape or tape segment has begun or ended. A guide to the tapes follows the transcript.
miles outside of Palermo on the northern coast of Sicily. He came here at ten years of age all alone.

Hicke: Your father did?

Alioto: Yes.

Hicke: How did he happen to come?

Alioto: He came in search of security, economic security. There was no work in the old country. There were too many people and not enough work. And so he was part of the vast immigration that took place between 1880 and 1920 in this country. He came in about 1897. My mother's father had come in about 1890 and so the family has been in San Francisco largely on Fisherman's Wharf for 100 years, approximately 100 years. My dad later on had a wholesale fish market where the present garden of the TransAmerica Building is. In those days the Hall of Justice, the criminal cases were just a block away up on Kearny and Washington. That old Hall of Justice that you sometimes see in "Streets of San Francisco." So you have it preserved now in film. Right now the old Hall of Justice is occupied by a hotel, the Chinese Cultural Center Hotel.

But in any event, because of the proximity to the wholesale fish market, I worked there as a young boy of from about twelve to sixteen years. I worked the summers and the winters there. But we got done early, about five in the morning. But at ten in the morning I'd hotfoot it up to the courts and just sit and watch certain great performers.

And they were great performers in those days. The lawyers that particularly fascinated and whom I actually followed were Garret McEnerney, who was then the acknowledged leader of the California Bar and one of the acknowledged leaders of the national bar, as a matter of fact. John Taafe, who was a great trial lawyer, Theodore Roche, who was the law partner of Hiram Johnson, the leading political trial lawyer of our times, John L. McNab, and Maurice Harrison and Ed McKinsey.

And the cases in which these men were involved were very famous cases. There was a famous case brought by a woman who claimed she was the daughter of James Flood. And that was fought out with Theodore Roche and Garret McEnerney and others. She claimed to be the illegitimate daughter of James Flood. And at or about this time too, the Atherton scandal trials took place, involving the bail brokers, McDonough bail brokers, who historically were leading figures in the criminal jurisprudence lore of San Francisco.
So this is where I got an interest in the law business—just following these men. As I said, I was particularly fascinated by them, and later on in my life, I had the pleasure, when I first joined the Antitrust Division, of trying a two months' case against Theodore Roche, with whom I then established a very close personal relationship, and Maurice Harrison, who hired me for three months. Brobeck, Phleger & Harrison. Mr. Harrison hired me for three months between the time I took the California Bar and the time that the results were announced, because after completing law school in Catholic University of American in Washington, D.C., I had already had an offer from the Antitrust Division of the Department of Justice to work in their San Francisco office under Tom C. Clark.

Hicke: Well, let's go back just a little bit. Where did your mother's family come from?

Alioto: My mother was born in San Francisco. Her family came from Sicily from a town about twenty miles from my dad's home town. But in those days when you married somebody who was twenty miles away, it was deemed that you were marrying "a stranger" or a foreigner because of the closely knit lives. But my mother was born here. Her parents came here and she was born in San Francisco. My mother met my father on a fishing boat the day of the 1906 earthquake. They were both running away from the fire and the earthquake in North Beach, where they lived separately, and she met him for the first time as an eleven-year-old girl. He was eighteen, and they happened to be on the same fishing boat.

They had the notion that if they got out in the middle of the Bay they would be protected from the earthquake, which was, of course, not exactly correct. But they also felt that if San Francisco continued to burn down and their own residences burned, they had no place to go. But they had relatives in Pittsburg, California, which at that time was a great fishing center. At that time the Sacramento River was open to the fisheries and continued to be open up until 1957, when it was closed to commercial fisheries. And there were great harvests of salmon and striped bass and shad and shad roe.

And even one very peculiar situation. It was prohibited, it was illegal to be in possession of a sturgeon. But it was not illegal to be in possession of the caviar. And so the result is that for the fishermen, our peasant food as children was the caviar from sturgeon in the Sacramento River, which was pretty good caviar, incidentally. It's probably the best of the American caviar.

Hicke: Was it also canned? Was the caviar canned around here?
Alioto: No. The fishermen just kept it because it was, as I say, illegal to be in possession of a sturgeon; so you couldn't have a selling operation. But whenever they caught a sturgeon and that's with anything else, why they took the caviar home for themselves, and the sturgeon as well. I guess it was contraband at the time, but it did seem a shame to throw away a beautiful fish like that, particularly the mother of caviar. So we had both the sturgeon and the unborn fish and the unborn sturgeon as well.

Hicke: And why were they prohibited?

Alioto: It was just a conservation law. You couldn't catch sturgeon commercially in the Sacramento River. But sometimes they got embroiled with other fish. Nobody went out specifically to catch sturgeon, but when they did catch them with other fish, why the fishermen took the caviar and took it home and it was simply for home consumption. So that was a peasant food.

I always think of that as we grew up in North Beach right over there one block up from the Italian church, grew up in North Beach. I remember vividly what was generally peasant food at the time: the Sacramento River caviar, shellfish, crab and shrimp and oysters. This was not regarded at that time as very, very expensive food and as you know they are the world's delicacies today and are very expensive.

So that is my background. I went to--

Hicke: Wait a minute. We haven't even gotten you born yet. When and where were you born?

Alioto: I was born in 1916, February 12th of 1916. So I'm seventy-four years old now and I'll be seventy-five in February. On February 12, Abraham Lincoln and I. The gag used to be my friends would tell me, "On the day of your birthday they close the banks, which is not so much a tribute as a certain fear of what you might be doing on your birthday."

Hicke: And where were your parents living?

Alioto: 572 Filbert Street, one block up from the Italian church. We're looking at it from here right now. [points out the window]

Hicke: What about brothers and sisters?

Alioto: I had three sisters and we lived in North Beach at 572 Filbert Street, which I can see from my office up here on the twenty-third floor of 650 California Street. As a matter of fact, I can actually see the roof of the house that we were born in.
Hicke: The same house is still there?

Alioto: Yes. We were all born in that house. I'm not living there now, but we lived there for nineteen years of my life. I have an older sister who's a year older, one who's a year younger, and one who is five years younger than I.

North Beach

Alioto: North Beach was a great, colorful place, and we did some very, very interesting things.

Hicke: Can you tell me a little bit about that?

Alioto: We had a cultural education that was really hard to beat. I'm looking down right now at the Italian church, which is an architectural gem and internally it has probably the best altar in San Francisco. And this was built basically by working people under the auspices of a Salesian priest named Father Trinciieri, who was an intimate, a very, very close friend of Guillermo Marconi, the famous inventor, the inventor of the radio and the man who really started all of the cellular phones and everything else that we know about today. He invented the radio, came here and was living in the parish house in 1927 as a guest. That memorializes that fact up on Telegraph Hill on the way down from Coit Tower.

I was eleven years old at the time, and one of the ways they entertained Guillermo Marconi was to have the school kids come on down and perform for him. And I played the violin at the time, still do to some extent, and played "Santa Lucia" for Guillermo Marconi. It is one of the great reminiscences.

Hicke: Just a solo?

Alioto: A solo, yes. Played "Santa Lucia," a solo of "Santa Lucia" for Guillermo Marconi. And then we repaired for a banquet that night. And this is an interesting feature in connection with the wine case you spoke about. It was kind of my first brush with what the wine business was all about and what Prohibition was all about.

At night they had a banquet in the Fugazi Hall or the Italian American Athletic Club, which is just a block from the church in North Beach. It is located near the corner of Union and Stockton. And they had this huge banquet for Guillermo Marconi.
All of the civic dignitaries were there including the president of the Police Commission, a man named Sylvester Andriano.

And I'll always remember that there was wine on the table, which at the time was illegal. But it was there, quite out in the open, and I remember the president of the Police Commission standing up, and I guess this is typical San Francisco, standing up and saying, "I have to note that we have wine on the table as we're honoring this great Italian inventor Guillermo Marconi, (who was the outstanding inventor of course of the century at that point). And I just want to say that the positive law prohibits the drinking of wine, but the natural law of St. Thomas Aquinas I believe permits it, and we will therefore follow the natural law."

And I just want to say that I personally have never seen St. Thomas Aquinas or natural law philosophy put to a better use than on that occasion. And we, of course, were aware as children in North Beach that all of the Italians were making wine. As you know, the law at that time permitted you to make 200 gallons of grape fruit, so called.

But the Italians had their grapes and we used to crush them as kids. We used to stomp on them as kids in the backyards. And we'd all do it for each other because we enjoyed it. It was kind of a game. So we'd stomp on our own grapes and stomp on the neighbor's grapes, and the neighbor's kids would be stomping on ours too, which gave the wine a great flavor, as you can understand, but we were all clean.

Took baths all the time. The Italian family was a very clean family, just insistent on cleanliness. They're not Dutch-like but they always insisted on that.

Hicke: Did you grow the grapes or did you buy the grapes?

Alioto: No, no, no, the grapes were all grown up in the San Joaquin Valley and the Napa Valley. And they brought in the grapes that make the so-called Italian red. My family used to make the wine there too, and everybody else did, and everybody knew we were making wine.

But I think there was kind of an exemption in the statute for using wine for sacramental purposes, for church purposes, and for health purposes. I just want to tell you, Carole, that there were plenty of holy and sick Italians in North Beach during that period of time when they kept the flame alive.

Hicke: Well, it was the standard thing to have with your meals, wasn't it?
Sure, sure. And we had wine at the house. We never drank it as kids. We began to sip it as we got older. And I think that was the reason alcoholism was no problem at all in North Beach. It was hardly known. I didn't know the concept of alcoholism among the wine drinkers in North Beach.

But what was done with wine was done quite openly, though technically I guess it violated the laws. The Prohibition period extended, as you know, from 1918 to 1933, when Franklin Roosevelt, by regulation, legalized beer, and then, of course, the amendment was passed which permitted alcoholic beverages.

And I always thought of that as the kind of aberration that can develop in law, prohibition against the use of drinking wine because some people abused it, more important, distilled spirits, which were abused. And it was always kind of a great lesson to me as maybe that man, that police commissioner, was right: there is a difference between positive law and natural law at times.

And here is my opinion. I believe in the concept of natural law, namely that by human reason we can ultimately decide on what is basically right and what is basically wrong. That's a function of human reason. Some people call it conscience, and the course of natural law philosophy is one of the great debates in jurisprudence over the years, but most people in the final analysis don't agree with Justice [Oliver Wendell] Holmes, who said that natural law is humbug.

Every time you're talking about the 14th Amendment, due process of law, equal treatment, there are no definitions of those things. Those definitions have to be filled in by the use of human reason in the moral realm.

And so I was brought up in an atmosphere where I knew about a pervasive law that was causing a lot of trouble and creating a lot of gangsters. And yet we had it served on our table in North Beach and it was accepted as no different than any other food we ate. I have no recollection as a boy of alcoholism as a problem in North Beach, and it wasn't.

So anyway, it's out of that background then, working down at the fish market and going up to the courts and watching performers like Theodore Roche and John Taafe particularly. Theodore Roche was also, I think, on the Police Commission at the time of the Marconi banquet, and he was present that night when the other police commissioner said that he proposed to have the wine and follow the natural laws of Thomas Aquinas instead of the positive law. Let's see, who was the great--Volstead. Volstead was the
prohibition or the positive law of Carrie Nation and her hatchet wielders who were destroying the saloons of America with impunity.

When they talk about riots of streets today they've all forgotten about Carrie Nation and her hatchets running around chopping up saloons.

Hicke: Let me ask you about your family. Were they involved in politics or local community activities, anything like that?

Alioto: My father was the political liaison to the people on Fisherman's Wharf. He got their licenses from the state on the promise that they would build up the Wharf. My mother was active in the Salesian Boys Club Auxiliary. Mrs. Walter Canzervaro started the auxiliary. Among the most active was my Aunt Frances.

They were all working people. These folks worked from four in the morning. They generally went to bed at seven at night. My father and his brothers were working people, and my father built a substantial wholesale establishment with plants in Monterey, Santa Cruz, San Francisco, Pittsburg, Martinez, Fort Bragg, and Seattle.

The salmon run started in Monterey in those days. And so you'd start in Monterey around April and then you'd go to Santa Cruz and then to San Francisco, and then the Sacramento River which at that time was open to commercial fishings, and then to Fort Bragg, Shelter Cove, Eureka, and as far as Coos Bay in Oregon.

And as kids during the summer times we'd follow the salmon run in these various places and I worked in these fish-receiving, salmon-receiving places. And in those days salmon was packed in 1,000 pound tierces and sent to Germany and to the New York market. It was mainly there. This was the famous New York lox. It's where it came from. I told all my New York friends, "You guys think you invented lox. You bought it from us."

Hicke: Did it go across the country by railroad or around by ship?

Alioto: No, it went by railroad in huge tierces, 1,000 pound tierces. I remember those huge barrels. I have a recollection of packing those barrels in Shelter Cove and Eureka, particularly, where I spent most of my summer times when I did do that.

Hicke: So you'd go up there and stay for some weeks?

Alioto: For the summer. We'd stay for weeks at a time at Shelter Cove and Eureka during the salmon season. And it was an interesting experience up in Martinez and Pittsburg as well, up until 1957
when they closed the river in favor of the sportsmen. And later on I got involved in a lot of litigation involving fishermen and we represent them today.

We started representing them again about five years ago in connection with the claim of Indians to have a monopoly of thirty salmon areas. The Hoopa Indians. We had an interesting case involving that. So long as they stayed in the river they got, for example, exclusive rights in the Klamath River.

Nobody argued with them about it. Then they said that we'd now have to have quotas in the ocean because it's from the ocean that the fish escape to the rivers and we are not getting our full count unless we have quotas in the ocean, and that's when we started to fight. They were going to put these fishermen out of work.

We won those cases. And we still have some of them as a matter of fact. They recur quite often when the Indians [inaudible]. Now the Indians, of course, were limited to the use of salmon for nutrition, for eating, for food, and for religious ceremonies only. But the truth of the matter that nobody wanted to talk about when we got into these cases is that they were selling them on the black market to the dealers, the same dealers who otherwise would have been dealing with the fishermen, and selling them illegally.

Hicke: Okay. We'll get those details a little bit later.

Alioto: Yes, that was later involved in litigation. As I say, they all have a recollection in my boyhood and youth.

Education

Hicke: What about schools?

Alioto: There's a school we can see from here right at the top of Telegraph Hill below Coit Tower there, the Garfield Grammar School. I went there for seven years. And then the Salesian Fathers started the school down at the Italian church, which I'm looking at too right now, in the third and fourth floor of the Italian church, and the roof of the church was our playground. And I did the seventh and eighth grade there.

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1The Hoopa Valley Tribe v. California. 590 F. Supp. 198 [1984].
Hicke: Was that square there then?

Alioto: Right opposite the square. Step up a second over here.

Hicke: Oh, yes, I've seen it. I can see it from here. But I didn't know if the square was there then.

Alioto: Oh, yes. The square was there. One of the vivid recollections, which is a way of dating things, is my going to that square as a young boy and somebody telling me, "There's no school today." The President had just died in the Palace Hotel. President [Warren] Harding died in the Palace Hotel.

Later on a lot of historians claimed he was killed in the Palace Hotel. But that's one of those things that always arises historically. Yes, that square was there and it was there because this is the Italian concept of the piazza that was carried out in North Beach.

And while I was going to that church and school, that church was bombed seven times.

Hicke: Bombed?

Alioto: At four in the morning. Bombed. You're just too young to remember the anarchist movement in the United States.

Hicke: There was a bomb set off inside of it?

Alioto: It was the same movement that Sacco and Vanzetti were part of in the East. It's an Eastern phenomenon, but we had the anarchists. And they bombed the church seven times at four in the morning, rattled the windows of our house. We lived in the flat a block up from the church at 572 Filbert.

Hicke: Why did they attack the church?

Alioto: Well, the anarchists attacked all of the institutions that were the opposite of anarchism. And the church was one of them. The church, the government, the institutions. And the seventh time the police finally caught them and they had a gun battle, killed them. And they turned out to be Hungarian anarchists.

But the movement of anarchism in the United States, particularly in connection with the mills in Massachusetts, was organized by Italians. As I say, Sacco and Vanzetti were part of that crowd back in Massachusetts, and incidentally, were guilty as hell, despite all the glamour that surrounded them.
Hicke: I was going to say, that's another case that's never been--

Alioto: Oh, it's been solved pretty much now.

Hicke: Has it?

Alioto: It's been solved pretty much now. There are people now who have talked. There's a man named Francis Russell, who wrote an investigative report before his death about ten years or so ago and found the conclusive evidence right over here across the Golden Gate Bridge. The son of the treasurer of the Sacco-Vanzetti Defense Committee gave him a recording that his father had made in which he said that Sacco and Vanzetti were guilty. And he was in a position to know. And later on all of the lefties who had screamed about Sacco and Vanzetti were told by Carlo Tresca particularly, who told Norman Thomas, a perennial Socialist candidate, not to scream about Sacco and Vanzetti because they were guilty. And, as a matter of fact, they condemned Sacco for bringing Vanzetti with him. Vanzetti could have been cleared if Sacco had wanted to do it.

But in any event, those same brands of anarchists bombed that church seven times. When people think that violence is a modern-day invention, they're just forgetting even their recent history. And that occurred in the twenties. I think they finally killed the two anarchists who were doing it. They'd bomb it about every three or four months. Nobody was ever killed, because they'd do it at four in the morning.

Hicke: What about World War I? Did that have any impact on your family?

Alioto: Well, of course I was born in 1916, so I was too young at that point. It was only after the war that I became interested in it and went through it in school.

Hicke: But your family wasn't, none of your family was--?

Alioto: No. No. My father had a family of four children and had two of us, and at that time they weren't drafting married men unless they finally got around to them in their particular draft board. And later on, of course, in another war I had cousins killed, but that's a different matter.

Hicke: How about teachers? Are there any particular teachers who had a strong influence on you?

Alioto: Yes. After Salesian School I went with the Christian Brothers at Sacred Heart High School and then went on to St. Mary's College. And the Brothers were great teachers, particularly on subjects
like literature. Great teachers on literature. They were particularly devoted to the British essayists as well as the luminaries like Shakespeare and Milton. But the British essayists and the British poets of the 18th and 19th century.

And among those teachers at St. Mary's College was a man who in the Order was known as Brother Leo. He later wrote under his name, Francis Meehan, when he left the Order when he was about sixty years of age. And he was a man who is kind of forgotten around here now but he held poetry readings in the Opera House without a mike and had 3,000 people there in the midst of the Depression charging five dollars a seat. People think that poetry readings are something they invented on Grant Avenue. But this man had a very dramatic style. He would hold a recital, for example, of Shakespeare renderings.

He held poetry recitals: he had a great recitation of what he called the greatest poem on homesickness ever written in the English language, which was the "Road to Mandalay." We think of it as a song instead of thinking of it as great poetry that Kipling wrote. And he was great on the Irish poets who wrote of the fairies, leprechauns. And there was an occasion when Robert Sproul--I was sitting with a group shortly before our graduation and heard Robert Sproul, who was then the head man at the University of California, say that as far as he was concerned the two greatest teachers in America--

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Hicke: Okay, two greatest--

Alioto: Yes, I heard Robert Sproul say that as far as he was concerned the two greatest teachers in America were William Lyon Phelps of Yale--this was in the thirties--and Brother Leo of St. Mary's. This was quite a tribute coming from the head of the University of California. This is a man who would lecture as I say and draw incredible crowds. People have forgotten the pre-television time when people did go to lectures and poetry recitals and things like that. He was the only one I knew who could fill the Opera House just reciting poetry. He was an unusual man and an incredibly inspirational teacher.

And I had not only the privilege but the great benefit that came out of that privilege of being his chauffeur in my last year in college. That was a job I had in college. I was a chauffeur. I used to drive him around to the lectures and listened to his lectures at the places I drove him to.
And I always remember one remark of his. He gave a very dramatic lecture on Shakespeare. Some enthusiastic teacher came up to him afterwards: "Brother Leo, that was just wonderful. How long did it take you to prepare that lecture?" And his answer was, "Forty years."

He got up and spoke without notes. Never had a note in his hand. He gave these recitals for three hours at a time without a note in his hand. He was a very dramatic Irishman. And later on he wrote three great books, Living Upstairs, which is reading for pleasure and profit, The Temple of the Spirit, and a third one, after he left the order. The brothers don't take perpetual vows now. So he left the order at sixty and married the coffee hostess in the Clift Hotel. And on his death she asked me to give the eulogy for him. He lived in Lake Sherwood in southern California in his marriage and retirement.

But these books are pretty much an embodiment of what he lectured to us. And he also had a course we all took called "Literary Travels" in which he told us about various places in England and the great poets and the great novelists who lived there. He was a great aficionado of Italy. He was a real Italophile. He loved Italy and loved the art in Italy and the literature in Italy and the life in Italy. And I've always retained something from that.

For example, I now have two children who are nine and eleven years of age, Patrick and Domenica. And a year ago Domenica had a teacher in the second grade who had the kids read Emily Dickinson and Christina Rossetti and Elizabeth Barrett Browning. So when in Italy I took the two little children to the grave of Elizabeth Barrett Browning, who is buried in the Protestant cemetery in Florence. And they each left a rose, a long-stemmed rose, an American Beauty long-stemmed rose, on the grave of Elizabeth Barrett Browning and recited the poem, a sonnet, that the three of us had written the night before.

This was a "Sonnet to the Portuguese" and not "From the Portuguese." Her famous list of sonnets, do you remember "The Sonnets from the Portuguese"? Her husband called her "my little Portuguese" because she was short and dark. She had an idyllic life living in Florence where she died in the Casa Guidi, as they called it.

I had an interesting time when as mayor. I was one of those who implored the mayor of Florence not to tear down the Casa Guidi in favor of a development. Casa Guidi is on the left bank of the Arno [River].
And in Rome Brother Leo would tell us the story of the burial of John Keats. John Keats is buried in Rome. He died at the foot of the Spanish Steps and is buried in the Protestant cemetery in Rome.

So see this had an influence. A man who can influence your life, right up to this last year so that we visited the grave of Elizabeth Barrett Browning, and prior years, with my older children, at the grave of John Keats.

Hicke: You're passing along this influence as well.

Alioto: Yes. My daughter Domenica had an unusual teacher in the second grade who had these children reading Emily Dickinson and Christina Rosetti and Elizabeth Barrett Browning instead of "Spot said this and Jane said that."

So those are influences that have carried over; and as Italians, too, I think we have a natural tendency to recognize in the European tradition of culture a certain heritage, and that we are heirs of that European tradition of culture. And Brother Leo wrote on the tradition of culture. Not as something living in dead men's boots or anything like that. He pointed out how the classics managed to distill vital principles of human nature and human behavior that are applicable in all times, in all periods. And so they're really current and vibrant things and not just things that relate to the past.

He always made the point that I make a good deal in the law business: tradition and innovation are not contrary concepts, but that they are correlative concepts. Take an example from the redwood tree. The higher it goes, the deeper its roots. It's contemporary; the roots of that tree are not dead things or things of the past. They are vital things that add to the new growth.

Hicke: They support the tree.

Alioto: And support that new growth. There's a good deal of that concept in the law as far as I'm concerned, the development of law and the evolution of law to accommodate to new social changes and new social conditions.

And I guess this is one of the things that attracted me as a young law student in Washington, D.C., to the New Deal and to Franklin Roosevelt: his willingness, while preserving the framework of an older order, not to fear to do the new things like Social Security and the labor laws and so many other things that were deemed at that time to be by some socialistic and by others
as simply a natural growth of democratic society. That, I guess, has fascinated me.

Anyway, after St. Mary's I went to the Catholic University of American Law School in Washington, D.C.

Hicke: Can I interrupt you just once?

Alioto: Surely.

Hicke: I want to hear about your violin playing. How did you start playing the violin?

Alioto: Well, there was a great musical organization as well as great athletic teams down at the Salesian Boys Club. It used to be in the basement of the Italian church and now it's in the structure to the left of the Italian church, as I'm looking at it, or to the west of the Italian church.

And besides having great basketball teams and baseball teams there was a man there who had a great formative influence on me named Angelo Fusco. He thought that dramatics and music were very important and he organized a stage band. We used to do vaudeville shows a couple of times a year at the Palace Theater, which is just directly across the street on Columbus Avenue from the church. And after school a lot of us took music, and music meant playing instruments, and we had a school band as well as that vaudeville band.

And music was a part of the life in North Beach. There's a very interesting phenomenon that we became aware of as kids. The three greatest American violinists are all from San Francisco. That's not generally known. They are Isaac Stern, Yehudi Menuhin, and then Ruggiero Ricci.

Ruggiero Ricci was as good as any of them, and he came out of North Beach. He was abandoned by his mother to another woman who brought him up with great affection and great love. And, at six years of age when he was showing this genius, was giving concerts playing the Beethoven concertos and everything else, the "real" mother tried to get him back. That issue was arbitrated by that same priest, Father Trinchieri, who was the close friend of Marconi in the early twenties. Ruggiero Ricci went on to be one of the great world violinists. He's still living, but he's about seventy-five years old now, the same age as Yehudi Menuhin, and Isaac Stern is about five years younger.

Hicke: Do you see some connection between--?
Alioto: And we used to watch them. We used to go down to the San Francisco Symphony and watch these kids who were ten years old, eleven years old, perform in these great concerts. It was an unusual thing. I don't know of any other city in America that had that kind of thing. The director of this boys club, Angelo Fusco, as I say, liked great athletic teams but insisted on music and dramatics and stage plays and vaudeville. And his likes have not been seen around here as a youth worker as far as I know at any time in San Francisco.

It was the environment. Being brought up in this environment; as I think back on it, I feel sorry for the people who don't have that same environment today. And it was deemed to be an environment of workers, basically, hardly the high-rent districts in San Francisco.

Although recently, I went back to the old house on 572 Filbert Street. The owner called me and said, "Would you like to see the house?" I said, "Yes." So I went back. The Chinese moved in first, then they moved on and we've got a gentrification as they're calling it. And artists of Columbus Avenue moved in but they weren't renting it by flats. They were renting it by rooms, room by room. That's how expensive that stuff has become.

But those were the three flats my grandfather built. He was my mother's father. He built three flats, with himself at the top, and mother and my dad in the second flat, and my aunt and uncle in the third flat, and another aunt and uncle in the back place. So we were all brought up in a very close environment.

Hicke: And you had a very rich cultural heritage.

Alioto: When you start talking about rich cultural heritage I feel sorry for kids today that don't have that same experience. And it wasn't something imposed. It was just part of the ambience you lived in. It wasn't a thing of affectation. Nobody thought of it, well, now I'm going to get culture. Nobody thought that way. It was just part of the life, and of course around the household we heard nothing but Caruso records and Tito and Schipa and John McCormick—records by him and records by Gigli and records by Martinelli. And we were able to see all of these great artists, except Caruso of course. Caruso came here, you know, was here to sing Carmen the night before the earthquake in 1906 and never came back, it frightened him so much. In the meantime he did sing that night to the people to quiet them. He performed the night before, Don Jose in Carmen. And sang to the people, you remember. But something that's not generally known was that he went up on Telegraph Hill. And he was a good artist, pretty good artist,
very good artist. He made sketches of the city. You ought to pick those up some time. They're very interesting.

Hicke: Are they published?

Alioto: Sure. But Caruso never came back. He got on that train in Oakland, never came back. But Schipa, Martinelli, Gigli, all of those folks came back. It was a necessity to see them when they performed, either in opera or concert. It was not a luxury for us. It was something that we did. We were taken to those things. And it was an unusual cultural heritage. It was all things--the basketball and all the summer camps and all of that music.

With it was this concept of music. The Caruso records were what we listened to, and one Irishman. My dad loved John McCormick. And there's something that not too many people realize. McCormick in his contests as a young man, as a young tenor, his singing contests in Ireland, had a great competitor. And people were always surprised to find out it was James Joyce.

James Joyce used to compete with McCormick before he got into his drunken stupors and wrote those great books of his. Joyce was in Trieste. He was a teacher of Berlitz, as you know. He was a language teacher at Berlitz in Trieste and in Zurich. And in Rome for a while he was a bank clerk. But always drunk. He could never pay the rent. They threw him out of the house all the time. His family lived a very rough life. He could never forget his background, Irish background, in his writing. And, as much as he repudiated the Jesuits with whom he was educated, as much as he repudiated them, he could never repudiate the philosophy, the kind of natural law philosophy that pervades all of his works, particularly Ulysses and the short stories, one of which was filmed about two years ago, "The Dead," a great thing.

But in any event, that's the kind of life we were brought up in. My mother really made the first break from what was the practice when she sent my sisters to the University of California. That was an unusual thing in my day. They were probably the first girls from North Beach who went to a university.

Hicke: About when was this?

Alioto: They would have gone to a university at, my sister was born in 1915. So sixteen years after that, 1931, '31, '32. But the other fishermen's wives, the fish dealers' wives, criticized my mother. "You shouldn't send girls to college." But she thought otherwise. She read a lot. My mother read a lot, which was unusual among them at that time.
Hicke: This was right in the Depression also.

Alioto: Right, in the middle of the Depression, 1929 to 1934, '35.

Hicke: How did that affect your family?

Alioto: My family was always a good provider. I always remember the time when workers were making $100 a month. That seems like a little, but back in 1929 that would have bought a lot. My father always made $500 a month. He was the boss of the company. He was a good provider so we always lived in comfortable circumstances. Not luxurious circumstances, obviously, but comfortable circumstances. I always thought the people in North Beach, the so-called peasants in North Beach, had the best tables in town. As I say, they enjoyed, among other things, caviar and oysters and shellfish, which were the peasant foods then.

But sure, the Depression was hard on us. And as a matter of fact, my father's fish company went through a form of bankruptcy, not a formal bankruptcy, but he had to make a composition with creditors immediately after the Depression years, in '34 or '35, and that obviously had some effect on us. But there was never any real sense of insecurity around the household.

That bankruptcy was a thing that bothered us a lot but he bounced right back and got into another business. Sole proprietorship on his own. So he recovered after the '37 recession. The recession lasted through '37. Then he recovered on that.

But all through that was my absolute fascination with the lawyers Garret McEnerney, Theodore Roche, and John Taafe. John Taafe was interesting. He's a name that's hardly known today because most great lawyers are not well known. They were too. Garret McEnerney was a guy who wore a black cloak and represented all the gold barons. San Francisco had just come off the gold field and everybody lived expensively. These were the new millionaires of the world, and he represented most of them like the Floods, the Crockers, and others. His nephew, Garret McEnerney, took over the firm after his death. But the old man was recognized as a great leader of the bar. Garret McEnerney, a very colorful figure, used to wear a black cape.

Hicke: Tell me about John--

Alioto: John Taafe was particularly interesting. He had studied to be a Christian Brother. And he was so damned smart that they sent him to Rome for a period of time. Then he left the Brothers, left the order and became a lawyer. And he was very, very active. I
remember Connie May Galvin, who was the woman who sued Flood claiming she was the illegitimate daughter of Flood. And it was a sensational trial. It was tried by a Judge Buck in San Mateo County, who ultimately threw it out. They later paid her off, though, because it was rather clear that she was the daughter of James J. Flood.

In those days that kind of scandal was a big deal. It's no longer a big deal. It's not only a fact of life, it's always been a fact of life, but an accepted fact of life today. But in those days it was a big scandal. McEnerney and Roche and Taaffe were involved in that. And it was a sensational trial which I followed.

Then we had a public defender around here who murdered a woman, Frank Egan. He was tried, and that was a very sensational trial. Here a public defender of San Francisco murdered a woman for the insurance, it was alleged. In high school I organized, when I was at Sacred Heart, I recall, a trial, a mock trial we used to call it, of the Egan case where we'd have a prosecutor and a defense lawyer. I was generally the defense lawyer on these things. And John Taaffe was one of the most brilliant trial lawyers I ever saw. Another man who fascinated me was John Francis Neylan, who was a lawyer for William Randolph Hearst.

And there was a good deal in the background of San Francisco in the Hearst trials and the Fatty Arbuckle trials. And then later on I joined up with a man who was a kind of a successor to these men, Harold Faulkner, who died two years ago. Harold first tried all of the bootleggers in the twenties and then represented and defended businessmen in antitrust cases later on. And he and I were colleagues in a rather famous antitrust case.

Hicke: We're going to get into that later too. But tell me, when you were talking about these brilliant lawyers, what do you mean by brilliant? Can you tell me what a brilliant lawyer is?

Alioto: They were just great trial lawyers. I used to watch them the way they'd examine witnesses and their opening and closing statements to the jury. These were acknowledged to be the brilliant men, the best. Remember San Francisco at this point is the leading city on the coast. Los Angeles was still a sleepy village in the twenties and the thirties, although the movie business was just emerging. But the movie business started over here, you know, in the valley in Niles Canyon. This is where Frank Capra first came up to work and where the first studios were before they went down south to Hollywood. Then they went from here down to Hollywood.
A. P. Giannini and the Bank of Italy

Alioto: The movie business, of course, was basically put together by the Gianninis. The other bankers thought that these guys were gamblers. They were gamblers who were half crazy. And I'm not so sure they weren't right. But Giannini was responsible for financing the things that were deemed to be too dangerous for more conservative banks, and Mr. Giannini is basically the father of the motion picture industry in America.

Of course, we were fascinated by this man, too. Now here was a man who came out of the produce business, who was selling bananas and peaches.

Hicke: A. P.?

Alioto: A. P. Giannini, down in the produce district, and who organized the Bank of Italy, as it was called, organized it in an apartment here in North Beach, started the Bank of Italy. When he started branch banking, the government regulators, acting at the behest of the Wall Street bankers, tried to put him out of business.

Shortly after I got out of the Antitrust Division, there was a lawsuit by the Federal Reserve Board against the Gianninis for disobeying an order about divestiture of some of the banks and things like that. They just defied it. I had a meeting with Mario Giannini in that apartment up there on the hill at the end of Green Street in the Crocker apartment—and I'm looking at it from this vantage point—in which I suggested a way he could purge himself of the contempt and continue to fight the case, and later on they settled it.

See, Giannini was a fantastic figure too, because then, in the thirties, the Wall Street people using a man named Elisha Walker tried to take the Bank of America away from Giannini, and one of the monumental proxy fights in all history took place. All of the Italians were galvanized to support Giannini at that time, even though there had been this horrible break in the stock in 1929 with everybody else's stock when so many people were wiped out who were trading in TransAmerica and Bank of America.

And so he was another figure of a boy who came out of the produce market and built the biggest bank in the world against the opposition of Wall Street, how he beat Wall Street in that fight. And he made a tremendous difference for California. California was no longer dominated by the Eastern banks. Permitted, for example, the motion picture industry that grew out here because they were willing to finance it. None of the so-called
substantial banks would have anything to do with these crazy people in Hollywood.
II  LAW SCHOOL AND PRACTICE WITH THE ANTITRUST DIVISION

The Wine Case

Hicke:  He backed the wine industry, too, didn't he?

Alioto:  The wine industry was organized by Giannini. I remember the first thing he said to me in the Crocker apartments, "Aren't you the guy that had that wine case in the U.S. Attorney's Office?" That was when I was in the Antitrust Division and I had the wine case. And you knew very well that you did. That was a very interesting case, that wine case, which we'll get into.

        Maybe now is as good a time as any, because it all grew out of that thing.

Hicke:  Okay, well, I've got the opinion here I was going to give you.

Alioto:  Can I have a copy of that?  I have no copy of it.

Hicke:  That's your copy. You can take a minute to look through that.

Alioto:  I know the case. I know exactly what happened on that in that complaint, CCW [Central California Wineries] and the rest of those things. This is the consent decree. Great! This is the consent decree, and there's quite a story behind this one, you know. It's never been told. And it's all verifiable. You can go get the newspapers and verify the story. This is interesting to see this after all of these years.

        The consent decree was very short. There it is: Joseph L. Alioto and Bob [Robert S.] Zwebell, special attorneys. Pearce Bradley. Thurman Arnold, Frank Hennessey, the U.S. Attorney. Anyway, here's what happened on that.

Hicke:  Let's start from the beginning.
Alioto: Very interesting. I was with the Antitrust Division at the time as something called a special attorney and was later made special assistant to the attorney general, which was a big deal. As special attorney we got $150 a month, and as special assistant to the attorney general, we got up to $400 a month after four or five years. Thurman Arnold, who was heading the Antitrust Division at the time, used to tell us, "Look, we're not going to pay you a lot of money but you're going to get something going for yourself that you'll use for the rest of your life, will be good for you for the rest of your life." And what he said was true.

But in any event, at one time they told us to go on over and look at the files of the DiGiorgio Fruit Corporation in connection with alleged price-fixing in fruits in California. You've got to remember that in 1940, everybody came out of the NRA [National Recovery Administration], the famous Blue Eagle, and the Blue Eagle permitted producers to get together and fix prices and restrict production and allocate customers and allocate markets, permitted them to do everything that the antitrust laws prohibited them from doing.

And so when the Blue Eagle was declared unconstitutional—the NRA was declared unconstitutional in the Shector case back in 1935 by the Supreme Court—some of these folks just continued doing the things that they had been doing because the government had encouraged them to do it. Now they were violations of the antitrust laws. Thurman Arnold had convinced Franklin Roosevelt, Thurman Arnold and Robert—who was the attorney general that went on to the Supreme Court? Robert, not Patterson—

Hicke: We can fill it in.

Alioto: Robert Jackson. Anyway, the two of them had convinced Franklin Roosevelt that what Franklin Roosevelt was later to call the economic royalists had developed these trusts and monopolies and this was the reason for the recession in 1937 and '38. So he gave them carte blanche to have a big antitrust drive. There had never been a big antitrust drive up to that point in the history of the antitrust laws. It had only been sporadic or isolated prosecution, the prosecutions of Theodore Roosevelt against the Standard Oil Company and the tobacco trust and the glucose trust and the various trusts that the—the glass trust at the turn of the century.

But now this was a big, coordinated drive, and we had officers all over the country, as distinguished from Theodore Roosevelt, who had five lawyers in Washington, D.C., at the time they brought the Northern Securities case against James J. Hill and J. P. Morgan. By an odd quirk, I am representing today the
grandchildren of James J. Hill, who are suing the First Trust of Minnesota for $500 million on mismanagement of timber tract, the hill forest in Winn County in Oregon.

But in any event, this was a coordinated drive. I got hired to work in the San Francisco office. My boss was Tom C. Clark, who later became the attorney general and a justice of the Supreme court, and who got off the Supreme Court to make way for his son, Ramsey Clark, to be attorney general under Lyndon Johnson. Ramsey has continued to hit the headlines, as you know, as recently as a couple of months ago when he went to visit Saddam Hussein in the peace movement.

And so we were told to go look at the DiGiorgio files looking for price-fixing on fruit. And in the course of looking at those files we came across something called CCW, the Central California Wineries. DiGiorgio was in a bitter fight with the head of CCW, who had been a former Bank of America executive called Burt Critchfield. CCW was an attempt to organize thirty-two of the small wineries of California.

You'll see it in this complaint. I haven't read this complaint. I'm just talking from memory. It was organized in '32 and was called the Mosquito Fleet. And then the majors--anyway, looking for price-fixing on fresh fruit, deciduous fruit as they called it at the time. I remember that word, I don't know why; I've never used it since.

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Alioto: We came across this file, CCW, in which DiGiorgio was berating Giannini. "Why do we have to work with this man? He doesn't know what he's doing." DiGiorgio at this time had the major interest in Italian Swiss Colony, which was one of the five major California wineries at that time. There was Italian Swiss Colony and Roma and Petri, they were the big factors in the business at the time.

And so this was a combination and they fixed the price. I'll always remember the price: thirty-two cents a gallon. This was the price they fixed in 1938. It was the organization of a trust and they felt because the majors were not part of their organization, that they weren't violating the antitrust law.

But then from there we investigated the majors. One of the major wineries [Guild] filed--I don't have to tell you which one. I was doing a file search as a young lawyer at the time. We came across this correspondence which basically were to the sales managers in Chicago. And it said, in substance, "We had a meeting
in the St. Francis Hotel (designating the room) with Mario Giannini presiding, at which were present the major wineries." This was CCW, the minors, now we have the majors. And Mario Giannini told us at the time that he would "liquidate every personality in the wine business who didn't sell wine at thirty-two cents a gallon."

Last paragraph. "As this violates the antitrust laws please destroy this letter upon receipt." The guy in Chicago did destroy the letter upon receipt but the guy who wrote the letter didn't. He left it in his files and I picked it up. It came out of this major winery. So then we made the presentation to the grand jury for price fixing on wine. Francis Biddell was now the attorney general of the United States.

And there is a very powerful congressman from Brooklyn named Emanuel Cellar, who was head of the Judiciary Committee. And there was a famous woman lawyer, a lady I greatly admired. When you talk about lawyers you admired when you were a young lawyer, you thought of Mabel Walker Willobrandt.

In the presidential campaign of Herbert Hoover and Al Smith in 1928, I was a kid of twelve years old at the time. We used to listen to Al Smith, who was a fascinating personality, and he would talk about the prejudice against him as a Roman Catholic. It was all done up in Mabel's room. Mabel Walker Willobrandt was at that time the assistant attorney general in the Hoover administration in charge of enforcing the Prohibition statutes, and she went on from there to represent the wine industry.

So she gets involved in this thing. And the next thing you know the grand jury gets a communication from Washington that they are to stop all proceedings on the wine industry. But the head of the grand jury was a man named David Snodgrass, who was dean of the law school at Hastings. He started to scream about a fix. The case was being fixed. Emanuel Cellar had convinced Francis Biddell that he ought to stop the wine prosecution, he and Mabel Walker Willobrandt, because in effect the government had encouraged the price fixing, which was baloney.

This was the theory: that the government under an agricultural program had fixed the price of raisins and this had the effect of fixing the price of wine, which was crazy because they all met in the room and they agreed on the price. But this was the thing that they tried to kill the prosecution with.

So Biddell in any event finally said--he called me back to Washington and he said, "We're going to go civilly; we're not going to go criminally." I fought it for a while and didn't get
anywhere. I said, "This is a criminal case." We went back and the grand jury, the foreman says, "I refuse to stop this investigation. You can't tell me to stop it. I have the authority to go ahead and do it myself."

Then we were ordered not to present the case further. And he went down and saw Mike Roche, who was then a federal judge, and said, "I don't like what's going on here and I think the court should know about it." The court called the attorney general. We all had a conference with Francis Biddell right there, and at the conclusion the court said, "I'm going to dismiss the grand jury."

So we went up back into the grand jury room. And I'll always remember this because it was just about the time that Life magazine came out. The foreman was sitting in the grand jury room with this copy of Life magazine, and when we told him we were going to discontinue the thing, "We're going to present no evidence; we will not present an indictment under any circumstances in this case," this guy opens this Life magazine and takes out a press release in which he says that Roosevelt and Biddell were interfering with the grand jury in San Francisco and it looked like a fix to him. And this hits all the newspapers, the Chicago Tribune, the New York Times, all over the papers next morning, and this is what eventuated, this consent decree is what eventuated.

This was a very dramatic case at the time. But it was the clearest case of price-fixing. We had the number of the hotel room, who was there, what was said. And then that was followed by the letter to the salesman. "This is the price we have to charge." It was all done. Gave him the circumstances and now it says, "Please tear this letter because it violates the antitrust laws." This came out of it, this civil complaint that you just handed me, the United States against the Bank of America National Trust and Association and the rest of them.

It would be interesting if it said right on the first page: Joseph L. Alioto, Special Attorney. I was the attorney that did all the work on it. It was my case. I was running it, even though everybody else's name was on it. I went back to Washington when these guys decided, when Biddell decided, he wasn't going to go ahead with the case further.

Let's see, we have a bunch of definitions. Let's see, the defendants, the Bank of America, the TransAmerica Corporation, which at that time was a wholly owned subsidiary of the Bank of America, the Roma Wine Company, the Santa Lucia Wineries Inc., the Petri Cigar Company, which had the Petri Wine Company, Italian Swiss Colony, that was DiGiorgio, the Padre Vineyard Company, the
Mount Ivy Winery Company. And in the Petri files and in the Mount Ivy files we found a day-to-day description of this price fix.

And it all started because of Joe DiGiorgio, who was a tough guy who built the biggest agricultural empire in the world and who came from a town in Sicily about 100 miles from where my dad was born; my dad knew him. It all started because he couldn't take the dictation from the Bank of America. He was the one guy the Bank of America couldn't stare down, a tough guy, DiGiorgio, a little guy, five feet tall. I knew him later on. And very recently his nephew sold the DiGiorgio Company.

I always remember one letter, there are always letters that come out of those cases, they have nothing to do with the case, but it was a beaut. DiGiorgio was also playing footsies with the banana monopoly, United Fruit and Standard Fruit; it was a very famous case: United States against American Banana, et al.

A nephew of his wrote him from Central America: "Dear Uncle, you are going to be proud of me. I'll tell you what I just did. There was a bidding deal for a banana plantation, and United Fruit of course was supposed to get it, and I came in as an unexpected bidder, and I outbid them. I got the banana plantation." And the old man wrote back to him and says, "Dear Philip, I want to congratulate you on taking that plantation away from the American Banana Company. Now all you have to learn to do is walk on water like Jesus Christ to get your bananas up here, because they control all the banana boats and you don't have a chance of getting a banana." The banana monopoly was one of the worst in the world at that point, at that time. And this was Joe DiGiorgio.

This was the case that you've just handed me. And so then they took a consent decree, and the consent decree was basically that they broke up Central California Wineries. They broke it up.

The Wine Institute was a defendant. And there's a strange little story. The present president of the Wine Institute is John De Luca, who was deputy mayor of San Francisco when I was mayor of San Francisco, and I assisted him in getting that job. And he of course was doing an outstanding job.

But at the time of these events the head of the Wine Institute was a man named Harry Cadow. And there was an assemblyman, not Jerome Politzer. Anyway he just died at ninety years of age about two months ago after inviting everybody to his ninetieth birthday. Then we got an announcement just before the birthday that he wasn't going to be able to make it. He died about two or three days after his birthday.
But he and Harry Cadow ran this show in terms of the California legislature. And you talk about lobbyists and lobby influence. These two guys really had it. We had some great personalities at the time, too. The Beaulieu Winery was run by a French count [Georges de Latour]. A French count had married the daughter, and Theodore Roche was one of the lawyers in the thing. These lawyers I admired so were all coming in now as defense lawyers.

I always had a good relationship with Theodore Roche. I loved the old man. He was a great guy. And the count started to tell us, when I asked to interview them about the Wine Institute, trying to develop the fact that they were in the conspiracy and all of that, he said, "What I like about the Wine Institute," he was a Frenchman with a heavy French accent, "is that it keeps people together." He was clenching his fists. It keeps people together. And all the time the lawyers were trying to keep him quiet. He was saying the opposite; he was thinking in terms of Europe and France.

So in any event, this was a great case and this history has never been told anywhere. Well, I've just told you about the wine case. And finally, the man back in Washington who really killed the criminal deal was another interesting figure. Cellar had a partner, Milton C. Wiseman. He and Mabel Walker Willebrandt were the principal people we were fighting at the time trying to get the criminal case that they were able to kill in Washington. They killed it, no doubt about it.

But Cellar was a powerful man. And Cellar's law firm—you walk into his law firm in New York, he was head of the Judiciary Committee, extremely powerful man. Later on he tried to kill all of the football mergers. I ran into him in that connection much later on. And on one side of the offices was the law firm Wiseman, etc., etc., and Cellar. And on the other side of the law office was Wiseman without Cellar. Their theory was that anything that had a legislative hearing—you talk about the Keating Five—was being handled by this firm, all in the same office, of which he was not a member, and not this firm of which he was a member.

Hicke: That's how they handled the conflict of interest?

Alioto: Yes, that's how they handled the conflict of interest, which was kind of an interesting point. And then in the, let's see, maybe, you are too young for these cases. I'm trying to think of the name of the federal judge of the Second Circuit who was convicted of bribery. He was a confidant of Cardinal Hayes of New York, the Irish Roman Catholic in New York, come on, now help me with the name, Man--begins with Man. It could be Judge Mansfield.
Hicke: Well, when the transcript comes along we can fill it in.

Alioto: Anyway this was a famous bribery of a federal judge. And when they talked about the bribery of George Gurth, and then when they had the Goldwyn case, I ran into this same thing again. That George Gurth bribed the judge in bankruptcy for the purpose of getting the Apollo Theater out of bankruptcy. And it said that the money was handed to the judge by one Milton C. Wiseman. That's the opinion. Read the opinion in the Second Circuit on the conviction of [Inaudible]. Anyway. This was a famous bribery case of a federal judge. And no doubt about it, those guys killed the criminal prosecution back in Washington. I was a young, naive kid. This was a great education for me as to how things were done in those days.

Francis Biddell was attorney general at the time. He spoke in those great British accents of his with his Philadelphia aristocracy being exhibited in the way he talked and in his diction. He later became the prosecutor, you remember, at the Nuremburg trials, Francis Biddell. And then he had a kind of love affair with the famous British novelist, what the hell was her name, Rebecca West, who has a child you remember by H. G. Wells, with H. G. Wells in his old age. They had a kind of goofy little affair that she writes about or that her recent biographer wrote about.

Anyway, Francis Biddell was in the middle of this thing--California Cooperative Wineries. Generally speaking, it says here, "The wineries located in California may be classified as follows: Large, independently owned commercial wineries." Those are the ones that met in the St. Francis Hotel. I have the room number. "Smaller independently owned commercial wineries," and these are the people that formed CCW. And then the co-ops. And they organized all three of them. The Bank of America was really behind that whole organization.

Let me see: in here the so-called independent, the cooperative wineries, they were represented by, and most of these people were Italians, DiGiorgio, Giannini, Petri, Roma was Cella [Vineyard Company]. Louis Petri married a Cella girl [Flori]. I later appointed Louis Petri to the Public Utilities Commission. He was a great--.

And then here are all the independent wineries. [reads list] Central California Wineries, here it is, a nonprofit corporation. CCW hereby made a defendant herein. And the individuals: L. M. Giannini, president of the Bank of America, A. P. Giannini, chairman of the board, [Inaudible]. Al Glock later became secretary of Agriculture. Louis Ferrarri was the
lawyer for them. R. G. Smith; Jesse Tappe was the one that became secretary of Agriculture.

These do bring back memories. Henry Cato, he was the one I told you about a moment ago. Cella, Lorenzo Cella, Joe DiGiorgio, chairman of the board of the Wine Institute.

Well, so anyway that's the story. It was the most interesting case that I had in my five years with the Antitrust Division and the Board of Economic Warfare. That plus the Borax Consolidated case, the case involving the British and German monopoly.

Law School, 1937–1940

Hicke: Let me go back a little bit if we're through with this. I know you did more with the wine industry so we'll get into that a little bit more. And we'll get into the Antitrust Division. But I want to know first of all: obviously you were headed towards law school for a long time. But how did you actually decide—?

Alioto: Down at the fish market watching these guys, watching Theodore Roche and John Taafe and John Allen McNab. I was going to be one of those guys.

Hicke: And ever since then you wanted to go to law school? So you headed for that all the way along?

Alioto: All the way along. I never had a second choice, except when I was six years old when I wanted to be a fireman. But except for that—

Hicke: And how did you choose your university and law school?

Alioto: The university was easy enough because I came out of the Christian Brothers High School. Everybody knew about this famous Brother Leo and I wanted to study under him at St. Mary's. So I went to St. Mary's.

Now how I chose the university, Catholic University, was I got a scholarship there. I first enrolled over at Boalt Hall and was studying at Boalt Hall for a week. The eastern schools opened a month later than we did. I'm not sure why in those days. I was at Boalt Hall for a week, and Maurice Harrison of Brobeck, Phleger and Harrison, who was a great, great man, tremendous, when I came out of law school he gave me a job for three months pending my
passing the Cal bar so I could join the Department of Justice, for which I had the commitment before. Maurice Harrison sponsored a scholarship at the Catholic University of America. And I gave the valedictory at St. Mary's the same day that he gave the speech of the older man. And on the basis of that valedictory, he recommended that I be given this scholarship.

So I got it three weeks after I started studying at Boalt Hall. So I went back, the idea being back in Washington--remember the years '37 to '40, all of the Hitler stuff, the Austrian stuff? And finally in '39 the attack on Poland. These were incredible years back there. They were also the years of the aftermath of the National Labor Relations Act, the Social Security Act, the New Deal.

And so I became a New Dealer. Franklin Roosevelt. We were supposedly revolutionaries in those days. This is what they thought was revolutionary: guys who believed in labor unions and nondiscrimination in hiring. The first FEPC [Fair Employment Practices Commission] Act was run by a Monsignor Haas, who ran the School of Philosophy at the Catholic University of America. And I was his administrative assistant.

The Irish labor leaders were the active people in passing the National Labor Relations Act. And one of the big authors of the National Labor Relations Act was Monsignor John Ryan, who taught social history at the Catholic University of America. Those years that I was there, I used to listen to him lecture all the time.

So this was the atmosphere we grew up in, the atmosphere of the New Deal, exciting times. And the people on the bench--we used to go down to the Supreme Court from there. Justice [Oliver W.] Holmes was still, [Louis] Brandeis was still on the bench, [Benjamin N.] Cardoza was still on the bench, and Stone, of course, was a man whom I greatly admired who was kind of the father of the antitrust laws in the twenties. Theodore Roosevelt and Justice Stone I think are the two big antitrusters that I think of in terms of the history, and followed by [William O.] Douglas and [Hugo] Black on the Warren Court.

Hicke: Can you describe some of those justices? Does anything stand out?

Alioto: Of course, there was Chief Justice Hughes, who was the stately guy with the beard. He was the guy that thought he was president of the United States in 1916 until the California returns came in and elected [Woodrow] Wilson. He went to bed that night thinking he was the president of the United States. He woke up the next
morning and found out that Wilson won because of the California vote.

But they had tremendous presence. And Holmes was on that court, and Cardoza and Brandeis, Louis Brandeis. The James J. Hill suit that I told you about earlier was being defended by Pierce, Bartlett, Doherty, Rumble and Butler, that law firm of Minnesota, that Pierce Butler was the--. And the big New Deal decision. This was the time when Roosevelt tried to "stack the court" by increasing its number to fifteen so he could appoint six judges who wouldn't continue to throw his social reforms out, like the NRA, the Agricultural Act, the Bituminous Coal Act, all of those Depression things.

It was a very impressive court, and just as I used to go down and watch the court from the fish market, I used to go down to the Supreme Court as often as possible and just listen to the arguments. It was a great experience, a great education, and kind of an inspirational thing too.

So anyway, that's my background as far as law school is concerned.

Hicke: Did you study any special courses in law school?

Alioto: Yes, I did two things. First of all I liked the philosophy of law. I've always been interested in philosophy. I studied jurisprudence under a brilliant teacher, Dr. Brendon Brown, who later became dean of the Loyola Law School. I used to see him in New Orleans when we were trying a series of cases in New Orleans. Before we had the motion picture cases, we tried five or six cases in New Orleans.

I was interested in the philosophy of law. And there was another thing. The Catholic University Law School was just next door to the School of Philosophy, and they had Fulton J. Sheehan. Fulton J. Sheehan was the guy that played opposite Milton Berle and ran Milton Berle off the ratings on television in the earlier days of television. Berle always said that. He said, "This guy's got a pretty good script writer."

Fulton Sheehan was one of the great orators of America, but a great philosopher as well.

Hicke: He was a teacher there?

Alioto: Taught at Catholic U. From the law school to his class was walking from here to the elevator. When I finished my class I'd
walk over and audit Fulton Sheehan's courses. And then besides Fulton Sheehan, there were a couple of other men.

Mortimer Adler, great philosopher from the University of Chicago. He used to go over there.

Hicke: What do you mean? He used to teach over there?

Alioto: He used to come for special lectures. And he did another thing. During the Christmas vacation none of us had enough money to come home. It was a long train ride. So I used to stay there during the Christmas vacation; but they'd close graduate hall where the law students stayed.

The Catholic University is surrounded by a whole bunch of really highly intellectual seminaries: Dominicans, Franciscans, the Benedictines, all the old orders of the church. Mortimer Adler used to come over to the Dominicans, who were great philosophers. The Philosophy Department at Catholic U. was dominated by the Dominican priests. Ignatius Smith was one of the really brilliant philosophy teachers. And he and Mortimer Adler were close friends. Mortimer Adler used to stay over in the Dominican Seminary and I used to sleep in the Dominican Seminary during the Christmas vacation.

I got in on all of these discussions between Mortimer Adler and Ignatius Smith and Robert Hutchins, who was the chancellor at the University of Chicago. And of course Hutchins we had heard about from Brother Leo, because Hutchins was just starting on the Great Books courses that Brother Leo really was doing on his own without calling it that.

This became a tremendous influence, as you know, in American education. These were the leaders, Mortimer Adler, Hutchins, Brother Leo of St. Mary's. Within that, see, I've always felt that the old concept of the Inns of Court, that sounds dramatic, but it was a mistake. You should have the law school in the university so that you can have the benefits of the other disciplines, history and philosophy particularly.

And up until the time of Blackstone it was in the university. Then they went down to the Inns of court. I think all lawyers became too insular as a result of that. And at Catholic U. the great thing was that you could go from a class in future interests or contracts or real property and walk into a class with Mortimer Adler or Fulton Sheehan who were discussing the philosophy of [Jean Jacques] Rousseau, why they thought he didn't know what the hell he was talking about.
It was a great educational opportunity, that and the New Deal going on, the Hitler thing going on. And as I said before we were interrupted here, lawyers make a mistake when they just study law and nothing else. I think contemporaneously they have to be studying philosophy.

The best college step that you can take in terms of preparing for the law business, if you want to have an enjoyable law practice and not a law practice that's characterized by drudgery, is to study literature and to study philosophy and then to study law.

I did that at St. Mary's. My majors were literature and philosophy. And then at Catholic U., I had this great law school and we had special courses at Catholic U., lectures that developed in courses, four lectures from people like Williston on contracts, Wigmore on evidence.

Wigmore was born in San Francisco. I remember he was telling me that when he lectured to us. And these were the outstanding legal scholars.

Hicke: Did they come there because of it being in Washington?

Alioto: We had a very interesting dean of the law school who just died a while ago. Let me tell you who this man was, because he was an influential person, not so much as a teacher, as an administrator. He was an admiral in the navy, a monsignor in the Catholic church, priest. Before that time he had been an assistant prosecutor in Middlesex County in Massachusetts, and the man who wrote the book on naval justice. Robert J. White was his name.

He started out as a district attorney in Middlesex County and then got injured in the war, for whatever reason decided to go into the priesthood, and then took over the Catholic U. Law School. At the outbreak of the war he went into the navy and wrote the Naval Code of Justice.

Also at that time, one other thing: the Restatement was being written at that time in 1938. We used to go down to the Mayflower Hotel and watch all of these great legal minds putting that Restatement together. That was being done in Washington, the Restatement of Laws.

And there was this Monsignor White, later Admiral White, with whom I maintained a friendship right up until the end. When my son was running those steamships to Hawaii, I got him [White] a free tree on the trip to Hawaii as a last thing and then he died shortly thereafter.
But he had a knack of bringing along these men. One of the first heads of the SEC [Securities and Exchange Commission] was a man named John Burns, who was the lawyer for Kennedy, Joe Kennedy.

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Alioto: His son, Brian Burns, is practicing law out here with an alumnus of my organization, Fred Furth, who is a very famous lawyer. Max Blecher is another alumnus of my organization. We had a great alumni organization. And they knew from the beginning that they were going to be alumni. I told them it was going to be a family partnership, and that they could work; after a long time, get their practices and open their own antitrust offices, and both have succeeded brilliantly, as you know.

I had the pleasure of trying the Raider case with Blecher. He represented the Coliseum and I represented the Raiders. Working with him was one of the great legal experiences of my life in connection with that Raider case, the dog fight between Al Davis and [Pete] Rozelle.

Homer Burns and this Monsignor used to bring Williston to the school and Wigmore to the school. Then he would bring the secretary of Labor. Labor was a big issue at that time; the organization of the National Labor Relations Act had just taken place three or four years before that and had been sustained by the Supreme Court at a time when nobody thought they were going to be sustaining any New Deal legislation, that they would kick it all out.

So this is the law school, and it was a very rich experience. When I left the law school, I was concerned at that time about the California Bar, because it was notoriously exclusionary and restrictive. And so I brought back with me what was then the one volume of a guy named [Bernard] Witkin. Before each exam--on contracts, for example, I would read his 100 pages on contracts and be sure I had the California law. And it was just a one-volume thing. I've told him this a number of times.

It was a great review course as well for the course I was taking, because laws aren't that different, although California had some differences in many areas. So I had that one-volume work of Witkin, which was my Bible in preparing for the California Bar. But I was frightened about it because of everything you had heard: that they don't pass lawyers who don't study in California. I think at that time Harvard had something like a 50 percent return and Yale--. It was terrible what they used to do.
And so I kept up the California law with that one volume of Witkin and then took the D.C. Bar for batting practice in June. I came out here and took the California Bar in October. And then between October and December 10 I worked at Brobeck, Phleger & Harrison doing research work until I got my Bar Association and then went with the Department of Justice, the Antitrust Division.

At that time the assistant attorney general was an Irishman named Mat McGuire from Boston. And so I told Monsignor White after I graduated that I really would like to practice in San Francisco and I'd love to work with the Antitrust Division of the Department of Justice. There was a lot of stuff happening at that time in antitrust litigation because of Thurman Arnold.

And he says, "Come with me. We're going to have lunch at the Mayflower Hotel with the assistant attorney general, the guy right under Biddell." I says, "That's great." I thought I was going to have lunch with these guys. So we get down to the Mayflower Hotel and he says, "You sit right here, outside the dining room." I was just a young kid. I didn't know what the hell was going on.

So he had lunch with Mat McGuire and then the two of them came out while I was sitting there. I was like waiting. He said, "Where would you like to work, Washington or San Francisco?" I said, "I prefer San Francisco, my home town." Tom Clark was heading the office at that time. He said, "All right, you report to Tom Clark the day after you've passed your bar examination."

Then I had already passed the D.C. Bar and I went out to California and studied for that bar. What was the famous bar review course at that time? I guess it was Witkin's. Yes, but there was another one run by a black man. This was Witkin I took. I took the crash course with Witkin and then took the exam and passed it. Typed it then in those days.

I was with Brobeck. Herman Phleger was a big Republican who later became assistant secretary of State. Kind of a tough guy, that Phleger, and he was a big Republican.

Let me just tell you about Phleger. I remember one of my first assignments was to determine whether or not the petroleum industry in California was in interstate commerce. I came back with the opinion that it was. They at that time said, "Why? The refinery's in California, the oil's in California. We do it in California and then we sell it." I said, "I don't care what you do, it's an interstate commerce deal." And Phleger said, "You've been influenced too much by those New Deal guys; I can see that already." So that was the opinion I wrote for them at the time.
In any event, we'll continue this at what point? Or maybe I could just dictate into a machine somewhere. No, I think it's better if we do it this way.

More on the Wine Case

[Interview 2: January 30, 1991] ##

Hicke: Can you talk a little bit more about the wine case? For instance, can you tell me who was involved?

Alioto: Yes, I've had your copy from the oral history that was given at the University of California about the wine industry and apparently something was said about this case in the Biography of a Bank, but not enough with that.

Hicke: What I sent you was as much as this woman could find out. She looked at everything.

Alioto: You've hit onto an unusual story that isn't generally known. All that is known, of course, is the fact that the foreman of the grand jury, who happened to be the dean of the Hastings Law School, blasted the attorney general's office and called for the resignation of the attorney general on the theory that he was directly interfering with a grand jury, which had heard evidence of a very serious criminal violation of the antitrust law and was prepared to bring an indictment against all of the personalities involved, and it involved all of the chief executive officers of the Bank of America and of the various wineries, both the majors and the minors in California.

This was in 1942, relating to events that took place between 1938 and 1942, in which the entire wine industry was simply made a cartel, a huge cartel, dominated by the Bank of America.

The role of Emanuel Cellar and his partner, Milton Wiseman--I think I told you last time that the Wiseman firm in New York had two plaques on it announcing their names. One plaque had Wiseman, et cetera, without Cellar, and the other one had Wiseman and Cellar included into it, and they avoided conflicts of interest, according to them--in those days there was a less strict environment or a more tolerable environment--by saying that when Cellar was involved, it was the other side of the firm that was handling it. But they were all intermingled in the same offices, of course.
Nevertheless, there isn't any doubt that that was the clearest cut case of an intentional violation of the antitrust laws to be found in those days. And this was Thurman Arnold's heyday, the heyday when Thurman Arnold was given the commission by Franklin Roosevelt to clean up the monopolies and the cartels in the country that in part had been engendered by the NRA, which as you recall had an exemption from the antitrust laws and permitted industries to agree together on production quotas and prices and things of that nature.

But it was a very sensational and very touchy situation, and the most that ever came out of it was a demand for the resignation of Attorney General Biddle for interfering with that grand jury; and, of course, nothing came of it. I had prepared a complaint, a copy of which you have, which detailed the facts of the structure that had been set up, largely by the Bank of America.

The interesting thing was, as Mr. Critchfield points out, that he got into a controversy with Joe DiGiorgio. Joe DiGiorgio, the founder of one of the biggest agricultural companies the world has ever known, was not an easy man to control. His Sicilian background—he came out of a town called Cefalu, in Sicily. Built this incredible empire for fresh fruits throughout the country, starting in Baltimore, winding up in California, and he had an ownership interest in Italian Swiss Colony wine, which was one of the majors at the time and was largely dominated by the Bank of America, and later on Mr. [Andrea] Sbarbaro, who is mentioned in the Critchfield memoir, became the head of Italian Swiss Colony. But DiGiorgio, who was a free enterpriser by nature, just couldn't stand the kind of suffocation that a cartel-like industry imposed upon him and finally broke ranks and was very critical of Mr. Critchfield, took him on personally and, as I told you the last time, that case started quite by accident.

We were looking in DiGiorgio's files for price-fixing activities with respect to deciduous fruits and found this controversy he was having with Mr. Critchfield and which he brought right to A. P. Giannini. Finally told Giannini that he wasn't going to stand it any more. And DiGiorgio was one of the few men in California at that time who could stand up to Giannini. The rest of them, including all of the majors, were largely cowed by the Gianninis, particularly in that meeting at the St. Francis Hotel, and the people present in that St. Francis Hotel were the Cellas, [Louis] Petri, Sbarbaro was there representing Italian Swiss Colony, DiGiorgio was not there, a man named Vieth, who was a great scrivener of Mont Tivy Winery—it's in the complaint. And he is a man, Mr. Vieth, who literally wrote down the events of the formation, the conception or the carrying out of that cartel in the California wine industry as it related to sweet wine. He was
the man who wrote down the day-by-day diary of it. In every antitrust conspiracy there's always some guy, we call him Harry the Penman. And you've got to look for him and you're always going to find him. Somebody who writes things out.

Hicke: And you found that?

Alioto: We found--we went through his files and his correspondence was literally a day-by-day report of this conspiracy. You say that Louis Petri admitted the price-fixing activities?

Hicke: But that was only I think to another person who is not named.

Alioto: He had very incriminating letters in his files, including letters to the effect that, "This violates the antitrust laws; so be sure to destroy this letter after you've read it," and the man he wrote it to, a Chicago sales agency, did destroy the letter but Petri kept it and it was found in his files.

In any event, it was just an absolutely closed circle of proof beyond all reasonable doubt that they intentionally violated the antitrust laws and were quite ready to take the risks of that violation.

Hicke: And the purpose was because they were losing so much money or they thought they were going to lose money?

Alioto: They claim that they were in a distressed position, but you've got to understand that this was all started five years after Repeal and it would be understandable that five years after Repeal, 1001 new factors were going to get into this business. And as a matter of fact, CCW, Central California Wineries, was called the organization of the Mosquito Fleet. At the time, you remember, there was that little PT boat that was immortalized by Jack Kennedy called the Mosquito Fleet. And that name was applied later on in the forties, that name was applied to CCW as a purported organization of the Mosquito Fleet.

So, sure, the industry was wildly competitive and the price had dropped, in many cases, below the price of production, but that's not unusual where many people have relatively free entry into a business. All they had to have was a vineyard, basically. Crushing wine grapes is not really a high-tech job in any way at all. Maybe aging--the watching it may involve a good deal of high tech, as people would have you believe today, but you can make wine in your home. And, of course, during Prohibition, most Italians in North Beach--we're looking at it right now out this window--most Italians in North Beach did make wine in their own home. It's quite out in the open, all of the--as children, we
were in those vats crushing grapes with our bare feet. I think I told you last time, it added a special flavor to the wine.

Hicke: You think Mario Giannini or the Gianninis were the impetus for forming this?

Alioto: No question about it. Giannini financed the wine industry. As I was saying just before the telephone interrupted us, there is no doubt that the bank organized it, but the bank had financed the industry, which was regarded as a very, very risky industry by most other banks who wouldn't finance it. And this of course is to Giannini's great credit that he was willing to finance things like the wine industry, motion pictures in California. And he deserved great credit for being creative in that respect and for having literally created so many of the industries that now exist in California. And if Californians had been left to the tender mercy of the New York banking cartels instead of having a man like Giannini around, many of our great developments here would simply not be present today.

So that word of great praise has to be said for the Gianninis. In this area they got a little expansive in connection with ignoring the antitrust laws, but this is the way things have happened.

[tape interruption]

Hicke: We just talked about the Gianninis and I don't know if there's anything more to be said on that.

Alioto: Yes, I think I had said what I believe is true of the Gianninis: that without them California would have been a different place. And he was, in terms of banking, the embodiment of the free enterprise spirit. In terms of banking, the embodiment of the spirit of the antitrust laws. He was a rugged free-enterpriser who could take on the New York banking cartel and beat them. As you know, they tried to take over his bank in 1932, '32, '34, in that area, a man named Elisha Walker, who was basically a New York banker, New York-oriented, started a tremendous proxy fight to take over the Bank of America, and all of the Italians up and down California rallied behind Giannini and they won. But for that victory over the New York banking cartel, California would have been a vastly different place, because the role of Giannini in the development of California I would put at the very top level, as one man who influenced the development of California more than anyone else.

Hicke: I mentioned in my letter that the CCW then sold its wineries to Schenley, I think it was, and put it--
Alioto: No, it wasn't really CCW--if you will read that consent decree, that was never filed. See, that consent decree was negotiated and basically negotiated with Milton C. Wiseman and Mabel Walker Willenbrandt, and when you talk about great lawyers, that Mabel was one of the best I have ever met. And I've been up against the best in my career. She was one of the best. Not as a great trial lawyer but as a great negotiator, and as a great--fixer might be too hard a word but there isn't any doubt that they got as high as Franklin Roosevelt in quashing that criminal indictment and in interfering with that grand jury in San Francisco. There is no question about that.

It certainly got as far as Biddle. And I think that Emanuel Cellar, to whom Roosevelt was very much indebted in terms of political activity in New York and otherwise. So he was a very powerful congressman. He was head of the Judiciary Committee, among other things. There is no doubt that they got as far as Biddle and I think they got as far as Roosevelt in having this thing quashed. And then when they said, "Work out the civil suit," we negotiated the civil suit. And then they said they would do voluntarily what the consent decree required. So we didn't even file the consent decree.

But they disbanded CCW, and whatever properties CCW owned were then sold to third parties. The Schenley purchase was a little different. The Schenley purchase involved a program where approximately 40 percent of the California wine crop was set aside and turned into brandy, converted to the pro-rate program under Parker, the secretary of Agriculture at the time.

And there was a famous case, *Parker v. Brown*, which challenged the pro-rate program as a violation of the antitrust laws and it's one of the outstanding cases in the books, holding that the state acting as the state has the power to violate the antitrust laws, namely that the state is not a person within the meaning of person as defined in the antitrust laws.

Anyway, they had this pro-rate [Inaudible] around. And Schenley came in and bought it and then bought the Roma Wine Company and that was the start of the distillers. Roma was the biggest wine company in California at that time. These were the Cella brothers, and it was quite a combine there in terms of marriage.

Louis Petri was married to Flori Cella, Flori Cella Petri. And so you had in that marriage a combination of these two huge wine companies. And later one Petri, as I recall, purchased the Italian Swiss Colony, but that came at a later period of time.
It's a fascinating story of the wine industry, and with all that's been written about the wine industry, nobody ever wrote this story.

And Snodgrass, of course, is now dead. I'll tell you who is living who knew all about it, because he kept the books for him: Lou Gomberg, who I think he's still living. He's a director emeritus or something of the Wine Institute. I sent a copy of that complaint to John De Luca, who's now the president of the Wine Institute and used to be the deputy mayor of San Francisco when I was mayor. And told him that the only two people I know still around who know the details of what went on in the industry are myself and Lou Gomberg. And I think that's true.

Hicke: That's interesting.

Alioto: That was a very interesting case that never happened. It was a case that was fought out in the federal grand jury and in negotiating sessions. And I do recall when Wallace Howland, who was then head of the antitrust office in San Francisco, went down and told Judge Roche that he now wanted the grand jury to drop this investigation. They had decided to go in favor of a civil case.

And let me tell you the phony reason they assigned at that time. When you're trying to fix something you always have to at least clothe it in the color of legality or at least assign a reason which would justify what you're doing.

So in that case they said, well, the government had had a set-aside program on raisins because the raisin price was so bad. And that set-aside program on raisins, which was a governmental program, had the effect of "forcing" these folks to form a cartel, which of course was ridiculous on its face. But this was the reason assigned. And when they told Snodgrass that, who was chairman, who was the foreman of the grand jury, he said, look, we've recently had a case, the very famous United States v. Sacony-Vacuum in which it was held that governmental approval—in that case it was the Department of Commerce or the Department of Interior, rather, which had approved certain actions of the oil companies in buying up distress oil for the purpose of stabilizing the price of refined gasoline—and that case held that government approval was irrelevant if these folks violated the act. Snodgrass pointed that out to him.

Well, to begin with there wasn't government approval at all. The fact that you have a program, a set-aside program for raisins, a governmental action, is certainly no reason to fix the price of wine grapes. If anything, quite the contrary. The set-aside
program would have the effect of taking certain of the wine grapes, taking certain of the grapes off the market.

But in any event, that was a famous wine case and the story has never been told by anyone so far as I know. And certainly what Critchfield has said about it doesn't begin to tell the story. As a matter of fact Critchfield from what I read, the materials you read—is he still living, by the way?

Hicke: I don't think so. But I can find out.

Alioto: Critchfield, and there was the antagonism that he engendered in Joe DiGiorgio that really brought this to a head. But Critchfield obviously evades what really went on. And if Louis Petri did acknowledge that they were fixing prices at that time—of course, statutes [of limitation] have long passed on everybody so it doesn't matter, I guess. Anyway, it's a very interesting, secret episode in the life of the California wine industry, and it was critical to this industry.

Hicke: Yes, indeed. Well, thank you very much.

Alioto: I sent a copy of that complaint to Bob Mondavi's wife, who is compiling a kind of a history of the Mondavi company, and pointed out that the Mondavis bought the Krug Winery one year after the events that we are talking about. And that Bob Mondavi really represented the opposite style in the wine industry, namely the style of aggressive, individual initiative. He was a rugged individualist. And I think the wine industry has prospered under competitive spurs where it was becoming moribund under a cartel system.

War Frauds Unit

Hicke: Well, let's change gears here and go back to the time in about the 1940s when you were working for the war frauds unit. And you haven't told me much of anything about that.

Alioto: Yes. During the war, Department of Justice antitrust lawyers were used in two different areas. Because of the fact we were dealing in economic subjects all the time and weren't strangers in an economic forest, we were assigned certain duties with respect to prosecuting war frauds. They were contract frauds largely by the so-called military-industrial complex. There were a number of those cases that were prosecuted, but none of them stand out in my mind as being as large or as prominent as the recent defense cases.
that have been brought against the Northrup Company and General
Dynamics and some of the other companies, McDonnell-Douglas
[Inaudible]. Nor even as bad as the recent case against Stanford
University, where these folks were padding their costs with
artificial overhead and I think agreed to pay back a couple of
million dollars or whatever it was.

But we did that, but then we did something more interesting
in terms of the war effort. It was very helpful to the war effort
and it fit right into the category of antitrust. There was an
organization with Henry Wallace, then vice president, at the head
of it called the Board of Economic Warfare. What we did in those
cases, we interviewed everybody outside of Germany and Italy and
Japan who had anything to do with the German, Italian, and
Japanese cartels. And that's all those folks had. The purpose of
doing that: let me give you an interview we had with a man from I.
G. Farben.

He had run the I. G. Farben works in Japan for the Germans
when the war broke out. For a while he was interned and then he
was sent to the United States and I think became a United States
citizen, and we interviewed him, and he told us this kind of
story, which was later used as a kind of a foundation point for
all of our investigations.

He said the way they enforced the cartels in Europe was to
control something that they called a bottleneck factory. That
meant, for example, a ball-bearing factory, where all of the
industries had to be using ball bearings in one form or another.
So by control of that factory for the purposes of providing a
sanction to enforce the rules of the cartel, they were able for
example to deprive an offending member of the cartel from getting
access to these things.

These, since they were bottleneck factories, made ideal
bombing objects for the air force. So we interviewed the German
employees who were available to us. I. G. Farben of course was
the biggest industrial firm in Germany at the time with a big
German cartel. We interviewed those firms, those men who were
managers of their firms, for the location of the so-called
bottleneck factories in Japan and Germany and in Italy. And I did
particular work with the Perelli Company of Italy, which was one
of the dominant ones, which is the famous tire maker now but they
were making all kinds of war munitions at the time. And then that
information was supplied to the air force as bombing objectives
from there on.

I recall one thing that came out of the San Francisco
office. There was a huge dam in the industrial area of the Ruhr
in Germany, and one of the Germans who was interviewed told us, "If you can bomb that dam and destroy it, it would really mess up the works of the munitions plants all in that valley." And the air force did a week later. The air force bombed that dam and it did create a good deal of damage.

So this is how the antitrust laws were turned in connection with the assistance in the war effort, and the air force thought that it was a very, very important thing to them, particularly the ability to pinpoint what were bottleneck factories; that is what we called them at the time: bottleneck factories.

Hicke: Did you know, after this, did you hear about the dam being bombed?

Alioto: The dam was all over the newspapers. The bombing of that dam was a big item.

Hicke: How did you feel about that?

Alioto: Well, everybody felt--

Hicke: Well, I don't mean about the bomb but about the fact that you had--

Alioto: The fact that by the use of antitrust techniques, in other words, by an analysis of the German and Italian and Japanese cartels that we were able to pinpoint which factories had greater importance than others. In other words, if by bombing one place you could put ten other plants out of commission, this of course was a very critical thing in terms of destroying the German ability to keep manufacturing their weapons and their munitions.

So that's the work we did with the antitrust division in that period of time. Then we continued, however with the antitrust--

[telephone interruption]

Hicke: You were saying, we continued with the antitrust.

**U.S. v. Borax Consolidated**

Alioto: We continued with antitrust cases. And there was one very, very interesting case in 1944. It was a proceeding we brought against the borax industry, 20 Mule Team, the famous one that [Ronald] Reagan did some celebrated broadcasting for. The borax industry
in the United States was a monopoly between the Germans and the British, Borax Consolidated Limited. They controlled the big borax deposits in Kern County and in Death Valley. And the most famous borax deposit in the world was located in Kern County, controlled by the British. The Germans in Trona Lake, who were fishing in that lake for potash rather than borax, took borax out as a byproduct. And the two of them had cartel arrangements that literally covered the world.

And that was another case that was taken away from us. I remember the circumstances that it was taken away. I'd heard about these incredible deposits of kernite under the [Inaudible] which is a crystal-white substance.

Hicke: Kernite?

Alioto: Kernite, it's borax. It's the raw material of borax. It's a white substance. Of course borax is used as a cleanser for everything. It's a heavy-duty cleanser, and it's used as a chemical in lots of other chemical compositions. But I always like to get the feel of what I was doing. If we were talking about vineyards, I'd visit the vineyards. If we were talking wineries, I'd visit the winery, so you can get a real feel about what the thing is.

So I wanted to see this deposit, 1,200 feet under the ground. We went down to look at this thing, and you came onto this mine with just gleaming, white crystal as far as you could see. It's the greatest borax deposit in the world. And it had this other feature. If you took two tons of another material called colmanite from which they made borax, two tons would produce one ton of borax. If you took the kernite, this gleaming white deposit discovered in Kern County, if you took that deposit, one ton produced two tons by the addition of water. In other words, you got two for one instead of one for two, the other way around.

I came up out of that mine, and it was a little shaky getting up and down that 1,200 feet below the ground. And somebody said, "You're asked to call Washington." And so I did from right there. And they said, "Stop, we have just settled the entire case. Stop what you're doing."

The case was settled on what was obviously, I kept arguing, it was obviously a phony basis. In other words, the company agreed, this monopoly agreed to sell a couple of their broken-down colmanite deposits, the inferior type of ore in Death Valley, and kept without getting into competitive hands at all this incredible white, gleaming kernite, called kernite for Kern County. It was a
complete sell-out. There wasn't any doubt about it being a
complete sell-out.

Hicke: Why?

Alioto: Here is where the age of innocence expired for me. This business
about the government of laws and not of men and all of that
baloney. These were instances in which very important factors
were able to quash proceedings that should have gone on. In the
case of Borax, they gave them what was strictly a token settlement
but which, when you publicize it to the general public, the subtle
implications were lost. In other words, you could tell the
general public the Department of Justice achieves victory. Borax
agrees to sell some of its mines to the independents.

That's a little bit like when we got into the show business
thing. They say that Paramount agreed to divest itself of certain
theaters. What they do, they take the worst theaters they had and
divested themselves of those. They were liabilities. They
weren't competitive theaters at all. And so that was the other
rather famous case.

Hicke: Did it have to do with the fact that they were British--?

Alioto: I don't know what it had to do--that one I never, see, the other
one I was on the inside of. This one I was down in the mine when
the settlement was made. We didn't even know that these
negotiations--

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Alioto: And when I came up from the mine they simply said just stop
everything. The case is settled. And I said on what grounds. I
just argued in vain. It was a public telephone in the desert, and
I was there arguing, "You can't do this. You can't really do
this." "It isn't a question of whether we can do it. It's been
done. Your orders are to stop all the proceedings." And we
stopped it.

But we had actually returned an indictment in that case, and
it was quashed in favor of a consent decree, which is filed. You
could find that consent decree, United States v. Borax
Consolidated, Ltd. The way that cartel was set up was very
interesting. I'll always remember this guy's name, Lord Baker.
Lord Baker came to the Fairmont Hotel and took one room in the
Fairmont Hotel. And all of the other co-conspirators took another
room in the hotel. They included the British and the Germans,
basically. Stauffer Chemical Company was also involved.
Lord Baker would see nobody except an emissary. They would negotiate downstairs. He would decide what the decision was going to be and that was it. That was it. Lord Baker at one time—one of his pieces of his correspondence says that it's getting very difficult to do business in America because of these ridiculous antitrust laws that don't permit us to get together and make reasonable decisions between and among competitors on production and price levels.

I remember that contrast. And so basically British industry lacked the kind of drive the Americans developed in those days. Americans had achieved a superiority that had never been challenged until the Japanese and the Germans have come along recently to challenge us in the industrial area.

But in any event that's the story.

Tom Clark

Hicke: Tell me a little bit about Tom Clark. You worked directly for him?

Alioto: Tom Clark was the head of the San Francisco office. He was a very able leader. Tom Clark came out to San Francisco pretty much as an accident. He was a part of the ruling Democratic group in Texas headed by Attorney General McGraw, a man named McGraw. And when McGraw ran for governor and was expected to be a shoo-in, along came a political accident—you're a little too young to remember this—named Pappy O'Daniels, who won the governor's race by strumming a guitar from east to west in Texas. Strumming a guitar. And he won the governor's race. So the Clark group was out. Clark then got this job with the federal government because of the great influence that the Texans had in Summer; the speaker of the House [of Representatives] had great influence. Sam Rayburn of the Texans got him this job, and later on he was promoted to attorney general and then as a Supreme Court justice, and he retired as Supreme Court justice in favor of his son, so that his son might become the Attorney General Ramsey Clark.

Tom Clark was a very able organizer, a very able motivator, and he did have a way—for example in that wine case: he says, "Joe, would you go down and help the FBI in looking through some files in the DiGiorgio company or the Petri company? It'll only take a couple of hours or so." We'd be down there examining those files for the next two weeks instead of a couple of hours. He had a great way of minimizing the tasks at hand.
We had to work very hard in those days. We only had four lawyers in the office half the time, in the whole division maybe nationally might have had maybe seventy-five, maybe fifty. I'm not sure of that. But Clark told us when we first got the job, "You're not going to make any money hanging around here, but you'll sure learn a lot and you'll do a lot of interesting work." It turned out to be true. We worked hard. Nobody went home at five o'clock. Working at nights and the weekends was no novelty to us during this period.

In any event, Tom Clark was an extremely able man and had a strong political sense that Southern Democrats seem to have as a way of preserving their dominance. They may have lost the Civil War but they sure won that war in maintaining the chief committees and the chief power in the Congress of the United States.

**Manhattan Project**

Hicke: I have the Manhattan Project here in my notes. Did you--

Alioto: That was a private case that I brought. The Manhattan Project you will find in two cases. It's mostly spelled out in Nisley v. Union Carbide and in the 10th Circuit. I can get you that citation if you want.

Hicke: Yes. That would be great. Thank you.

Alioto: I have it somewhere. Nisley, N-I-S-L-E-Y, against Union Carbide. I think it's something like 150 Fed. 2d, but I'm not sure. I'll take a look. In the Supreme Court, the most cited case in the Supreme Court is the Continental Ore Company v. Union Carbide.\(^1\) It's the most cited case for private treble damage actions, cited case in the books.

Hicke: It was a landmark case.

Alioto: It covers everything. Basically, that was a charge that Union Carbide and Vanadium Corporation of America had monopolized the vanadium industry. This is what they were looking at. This was a government indictment, and the government and the government civil case were put on hold from approximately 1948 to 1957. It was put on hold on the theory that discovery of documents of the case.

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\(^1\)Continental Ore Co. et. al. v. Union Carbide and Carbon Corp. et. al., 320 U.S. 690 [1962].
would betray the secrets of the Manhattan Project. All of the
documents had been marked confidential by the government because
they related to the Manhattan Project.

Manhattan Project got involved because the principal source
of vanadium in the United States was the Colorado Plateau in an
ore called carnotite ore, C-A-R-N-O-T-I-T-E, carnotite ore. It
was mined principally for vanadium. It was six parts vanadium and
one part of uranium. The Manhattan Project was largely from
uranium mined in the Colorado Plateau, and the Union Carbide and
the Vanadium Corporation of America were assigned by the
government to produce the uranium for the Manhattan Project for
the atomic bomb.

When we filed a private antitrust suit on behalf of a German
immigrant who had been chased out of Germany by Hitler and out of
Luxembourg by Hitler, we were told that the documents were
confidential and that we would have to wait for the case, which we
filed in 1949, we would have to wait--we actually had to wait
until about 1957. When we got those documents, there was nothing
really that confidential about them. It was not the first time,
nor the last time. There's a deplorable increasing tendency in
the law today to mark everything confidential whether it's
confidential or not and to seal it.

When we finally got the documents, we brought this case on
behalf of the independent miners on the Colorado Plateau, who were
paid zero for the uranium content of the ore at the time Union
Carbide was making a lot of money off the sale of uranium. The
excuse for paying zero was that if they paid them anything at all
it would betray the fact that Manhattan Project was on. Another
ridiculous statement that the gullible public might believe but no
insider could possibly believe.

We developed a theory that there was, in substance, an
agreement to pay zero. That's a price-fixing agreement, probably
the most unusual price-fixing agreement in the history of the
antitrust laws--an agreement to pay zero to the producers. They
fixed the price at which they paid the producers for the vanadium
content of the carnotite ore. So, we brought the case on both
grounds and we got a jury verdict and a very important decision
affirming that jury verdict from the 10th Circuit in the case
known as Nisley v. Union Carbide.

Hicke: Who was your opposing counsel?

Alioto: Opposing counsel was Josiah Holland, Holland & Hart of Denver, and
Morrison, Foerster, Shuman & Clark, as it was known at that time
in San Francisco. The man who worked on that case was a man named
Richard Archer, who has long since left Morrison, Foerster, Shuman & Clark but he's still around. If you read that case, and I have the whole trial record in that case at home because we sent it up to the Supreme Court. When we won the companion Continental Ore case in the Supreme Court, then the whole thing was settled out for approximately $4,000,000, which in 1958, '59, and '60 was $4,000,000, not as today.

Hicke: Was that treble damages?

Alioto: That was a treble damage suit but we settled on the basis--

Hicke: Oh, but you settled?

Alioto: Basically, settled out on the basis, I would say it would be three quarters of the treble damages that we wouldn't otherwise have had. That Continental Ore case became a very famous case, and there's a very interesting anecdote as to how--I may have told you this last time, I don't recall--as to how we got such dramatic evidence in this case.

Hicke: I don't think so.

Alioto: This is the anecdote. The man who carried out the dirty work, there's no other word for it, on the Colorado Plateau for the Union Carbide, was a man named Burwell. His superior in New York had a German name, Van Stein, who was a superior in New York. So long as those people were just victimizing the miners on price-fixing charges, it didn't bother them. Then in 1946 there was a surplus of vanadium on the market; so the Union Carbide and the United States Vanadium Corporation curtailed, stopped mining on the Colorado Plateau because of this surplus. When you stop mining for vanadium, you also stop mining for uranium.

At this time the chief source of uranium for the free world was the Belgian Congo, and at this point, the uranium in the Belgian Congo was under water. It wasn't even operating. So, Burwell, who had lost a son in the war, was perfectly willing to go along with the cartel so long as they were just victimizing miners, the producers of the ore. He was not willing to go along with it if it impeded the access to uranium of the free world, which was absolutely critical in keeping the Russians in tow at the time. So, Van Stein--and that's not exactly it but it's something like that; I'll have to go back and look at it--had secreted in his apartment a whole bunch of documents which betrayed the nature of the cartel, which betrayed the price-fixing activities of the Union Carbide. Why he did it, we never quite found out.
Then he gets sick, cancer, and he's being taken to the hospital and he thinks he's being taken for the last time and he's going to die. So, in his apartment house in New York he had a mistress who lived down three or four floors from him. He bundled up these papers which betrayed the whole cartel and the conspiracy and what these folks were doing and sent them down to his mistress. He was not dead five minutes in that hospital when a vice president of Union Carbide broke into his apartment and went to his desk looking for these papers when he had found that these papers were missing. At the time he was looking for the papers, he was on the stand in Salt Lake City, and I got this story out of him. He happened to be there, we got this story out of him in the case, the Nisley case. While he was there searching the apartment for the papers, the mistress, who had been instructed to send them to Burwell out in Grand Junction, Colorado, was literally wrapping them for mailing and got them to Burwell, who when they decided to stop the production of uranium, said that this was unpatriotic and we were going to stop, and Burwell turned the papers over to the Department of Justice.

Hicke: What a story!

Alioto: We got them from the Department of Justice and made the case. The Department of Justice brought their criminal case against them and they got acquitted in the criminal case after this long delay, because the Department of Justice tried a statistical case of monopoly instead of trying all the dirty work. We then tried our civil case after the government lost and we developed all of this dirty work and we won that civil case, and that's the Union Carbide v. Continental Ore. The Continental Ore case was by the German competitor who was run out of business by a series of predatory acts, and we got to the Supreme Court with him first because we got kicked out in the trial courts. We got kicked out in the trial courts and in the 9th Circuit. Got kicked out in the trial courts by a judge from Oklahoma who had tried the Crescent Theater cases in Oklahoma, who had been reversed by Justice Douglas on an erroneous finding of fact, a clearly erroneous finding of fact. When I argued Supreme Court cases to him, he said in the records, "Somebody has got to start reversing this Supreme Court and I'm going to start it right here." This was the trial judge. Needless to say, that was the first sentence in our petition [Inaudible], whether or not this court can let this guy get away with something like this. We got the case reversed. We won in the Supreme Court on Continental Ore. I argued that case in the Supreme Court. It was the first case I had argued personally in the Supreme Court, and it stands today, as I say, as the most cited case in the private action and also the most cited case on the right to have a jury.
Hicke: What was that about?

Alioto: Not the right to have a jury but the right to have a jury decide cases that are based on inferences rather than direct evidence based on circumstantial evidence in effect. It's as I say--

Hicke: Was that something that you developed also?

Alioto: Was that what--

Hicke: You asked for a jury?

Alioto: No, no. We had a jury, but then the Court of Appeals for the 9th Circuit took the case after those crazy instructions where we lost in the jury, then the trial judge gave an instruction from the Chlor case, which was then the law and which my associate was bringing to the Supreme Court, and by the time we got to the Court of Appeals the Supreme Court had reversed the Chlor case. Now, we had a bad instruction in the Court of Appeals, and in order to get around that the Court of Appeals says, "We'll just take your case as though it was motion to dismiss at the end of your case," and we dismiss it on the ground that there were no jury questions and that you couldn't prove damages, you couldn't prove causation. The Supreme Court says, "It's for the jury to make those inferences of causation where you have on this side an admitted violation and this side admitted damage and the question is whether the violation cause of damage is a jury question." That became a very, very important case in that connection. It's been cited, I'd say you can't pick up a treble damage antitrust case these days without Continental Ore v. Union Carbide being cited. So that's the whole background of that very interesting case. There was one feature of the case I think I may have mentioned to you last time. I don't want to be repeating myself.

Hicke: Some of this you told me before we started interviewing.

Alioto: The widow down in the gift shop in Albuquerque?

Hicke: You mentioned it, but it's not on tape. You just told me that in that first meeting when we didn't have it on tape.

Alioto: Is that right? One of the most gratifying things in my professional career was the time that I brought a $450,000 or $250,000 check, I forget which amount, made out to Helen Curran. I'll always remember that name. We kept referring to her in the jury argument as the Widow Curran. Her husband had happened on a uranium, a very important uranium mine, in this period when they were alleging all of this secrecy business, and they took it away
from him, just plain took it away from him as part of the conspiracy.

One of his successors later went to Burwell, who was then a government agent on the Manhattan Project, to complain about it. He complained in these words; he said, "I'll take it up with the government if you won't give me this relief." Burwell told him, "I am the government." Of course, he was, at that time, and they were able to do what they did under the guise of that, under that power, real power that they possessed. That statement, incidentally, is quoted by the Court of Appeals in this decision, reminiscent, of course, of Louis XIV, "The state, that's me."

In any event, those were the elements in that case, and when we won and got the settlement, I personally went down in an airplane, walked into that curio shop—that's the only way we could find her—and said, "Where is Helen Curran?" She was the lady I was talking to. I handed her this check. I gave $250,000 to her. I think she stopped working in the curio shop that day. You had this widow who had this fantastic thing at the time.

Hicke: That's a nice, happy ending to that one.

Alioto: It was. It was. Giving that money to her meant more than the $3,500,000 that went to the miners, went to Mr. Lear of the Continental Ore Company. Mr. Lear is now ninety years old and makes a new fortune every year. He lives in Luxembourg and New York, but Luxembourg mainly. I recently entertained him out here by taking him on the wine train.

Hicke: Oh, did you?

Alioto: We took the wine train, which is a great thing.

Hicke: Good idea.

Alioto: I've advised DeDomenico up there that what they're doing to them on that wine train is disgusting. That's a great thing, that wine train. It ought to be sponsored instead of being kicked around the way it is.

Hicke: Well, I brought that Continental Ore case up because obviously I thought it was in the war years, but clearly it happened afterwards.

Alioto: Yes. Well, it happened afterwards, based upon an indictment that was brought shortly after the war and may have even been brought in the last year of the war.
Hicke: I also have in 1945--

Alioto: Incidentally, on that case General Gross, who was head of the Manhattan Project, came out and testified about the whole thing, and I was trying to prove through him that there was no reason for the secrecy involved and there was no reason not to pay the miners for the uranium content of the carnitite ore. No reason at all not to pay them.

Hicke: What was his testimony?

Alioto: His testimony supported us. But he told the whole story from the time that [Albert] Einstein was brought down to Roosevelt, and Roosevelt was informed that two Germans, Han and Strassman, had split the uranium atom. Einstein had to explain to him the implications of that, the main implication being that the Germans were going to get there first to the atomic bomb. That's when Roosevelt then set up the Manhattan Project and appropriated the then unheard-of sum of two billion dollars to beat the Germans to the discovery of the bomb. It was critical, of course, for the history of the world. And, we did. We beat them to the thing there, thanks mainly to [Robert] Oppenheimer and Enrico Fermi, those two men particularly.

The whole theory of the pioneers and the theory of getting to atomic energy via splitting the uranium atom had been developed in Rome, at the University of Rome, with Enrico Fermi, among others as students, Enrico Fermi and [Emilio G.] Segre at the University of California, who just died six months ago, who was a Nobel Prize winner in physics.

He was a great guy, Segre. I knew him personally here and he and I discussed that Continental Ore case and the Manhattan Project on many occasions and, as a matter of fact, he was so interested in it that he, at one point, borrowed either our brief or our transcript that we wrote in the 10th Circuit on the Nisley case, which detailed all of the evidence we had, which in effect was a direct accusation against Union Carbide and the Vanadium Corporation of America that they were quite prepared to let the Americans lose the advantage of access to uranium. That was of course the critical thing in connection with the atomic bomb, because they wanted to uphold a price or cartel on vanadium, which happened to be in the same ore. At the same time, as I say, when the uranium mines in the Belgian Congo, which had been the principal source for the free world, when those mines were under water, and we said so in the brief, the 10th Circuit takes cognisance of that. It says indeed the plaintiffs accuse them of hindering the efforts of the free world to maintain a monopoly on the atomic bomb or something of that nature, without saying that
we were right or wrong. He mentions our contention. We were right about that one. That's why Burwell turned that stuff in. In other words, why he in effect betrayed the company to serve the country. It was an unusual, kind of a dramatic situation.

Hicke: A higher loyalty, I guess.

Alioto: Sure, sure. And that whole episode of that woman down in the postal room of the apartments, wrapping those documents, while this character was on the stand. I made him tell the story. [Inaudible] walked in, [Inaudible] start your thing and then develop the story through her how it was just at about the same time, shortly after the death (I almost had the name. Not Van Stein. I'll get it in a moment. It was the president of the principal subsidiary of the Union Carbide Company which was doing this. It was called the U.S. Vanadium Company, I think.)

Hicke: You must have had everybody in the courtroom on the edge of their chairs.

Alioto: It was a great--. You know, normally antitrust cases are dry as dust. This was a very dramatic case. This was a little bit like the Goldwyn case, I guess, or the Raiders case. Mr. Davis, you heard me speaking to Al a moment ago.

**Thoughts on Antitrust Laws**

Hicke: At some point, I want to hear something about your courtroom techniques.

Alioto: I don't have any techniques. I just argue. As I told you, I watched the great masters of the bar and was fascinated by them when I was a twelve-year-old kid. That's quite an education: being brought up by watching Theodore Roche and then having a case against him when I was with the Department of Justice, and watching John Taaffe and Gavin McNab, John Francis Neylan. These are the people that fascinated me. Garret McNerney of course was, in some respects, the most legendary of them all.

Hicke: Well, do you think we've covered your years with the Attorney General's Office?

Alioto: I think so. We had other cases involving the canning industry in California. Of course, in one case, the rice industry in California, which was run on a cartel basis. I handled that, and that was immediately settled after we indicted them in 1941.
Later on when there was another grand jury investigation and I was in private practice on an entirely different set of circumstances, I represented the rice industry, and I've been associated with it ever since.

Hicke: Yes.

Alioto: At one point, I was actually the chief executive officer of their Rice Growers Association, which was then the largest rice milling organization in the whole world.

Hicke: Okay. I want to get into that but a little bit later. But that's kind of like the wine industry. You actually started out on the other side in both cases.

Alioto: Yes. Actually though, I started out but I didn't--

Hicke: You didn't change sides, I didn't mean that.

Alioto: No. I didn't switch in terms of principle, because I was doing the same thing. In other words, vindicating the antitrust laws. I never have been, I'm one of the few who came out of the Department of Justice who wasn't hired by the big defense firms or the big defendant company. One of the few. There are only about two of us, actually. There was a time when as far as the plaintiffs were concerned, there were only three discernable antitrust plaintiff lawyers in the country. There was I in San Francisco, McConnell in Chicago, who would handle the motion picture cases, and Charles Burdell in Seattle. Burdell and I came out of the antitrust division. McConnell did not. McConnell won the major cases in the Supreme Court which established the law of damages in motion picture cases and in most other cases, *Bigelow v. RKO*. That case.

Until the electrical cases came along, there were only three of us, and we were the most active in San Francisco. As a matter of fact, there was once an investigation by the administrative head of the Department of Justice as to why so damn many antitrust cases were being filed in San Francisco, a disproportionate number from the rest of the country. It was because no matter where the case took place—for example, *Continental Ore* was a case that basically involved a New York company against another New York company, but I brought it in San Francisco because the rule was that you bring it anyplace where the defendants transact business. They transacted business everywhere. In normal circumstances, that would have been brought in New York City. When we filed the Goldwyn case that should have been--

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Hicke: Okay, so you developed--

Alioto: There was a disproportionate number of antitrust cases which caused, as I say, that investigation to find out. And maybe they got the answer from an unheroic--not a heroic couplet, but an unheroic couplet--written by somebody over at Pillsbury, Madison & Sutro who intoned, our antitrust division was a dwarf, so Alioto came off Fisherman's Wharf.

Hicke: Good. You know, I've had that question myself as to why there was so much antitrust action and I got the same answer.

Alioto: That was the reason.

Hicke: I think I sent you that quote from Bill Orrick, who said we had this wonderful lawyer here and--

Alioto: As a matter of fact, Ralph Nader in his book, and I have never dealt with him directly, says that our firm was a pioneer firm in establishing the rights of plaintiff under the antitrust laws. I think you'll find that in one of Nader's first books about the antitrust laws.

Hicke: To what do you attribute your interest and success in antitrust cases? It came out of your early experiences certainly.

Alioto: I just was interested in practicing law that had some philosophical content to it, not just a commercial content to it. And the basic philosophy of the antitrust laws is, of course, this philosophy of free enterprise that we all prayed about. As far as the businesses were concerned, they all acknowledged that free enterprise in competitive capitalism is the system for everybody except for their industry. They like to think there ought to be an exception for their industry. We're always different.

But I've found over the years that the anatomy of antitrust is strikingly the same, regardless of the industry involved. I just believe in the free enterprise system. If you believe in the free enterprise system, you've got to believe in the antitrust laws. This suit we're filing right now, today: it's a very interesting suit, because it makes the point, among other things--I'll get a copy of it and I'll keep a copy myself--it makes the point, among other things, that geothermal steam in connection with the generation of electricity ought to be permitted to be marketed on the competitive merits and not, as it is in the Sonoma geysers, tied to the price of oil. There is no relationship between the price of oil and the price of steam, but the Union Oil Company tied that together. I've been wanting to challenge that for the last fifteen to twenty years. I don't think, for example,
that the same company should be marketing oil, uranium, natural gas, and geothermal steam. I think their products ought to compete on the merits as well as companies compete on the merits, and this is one of the points we're making in this case that we're going to be filing tomorrow.

Hicke: Can I just put the name of that down? You said you're going to give me a copy.

Alioto: You can keep that. I'll bring a copy in, as soon as she gets off the phone.
SOUTHERN CAL EDISON SUED BY SAN FRANCISCO FIRM

California Energy Company today filed a $780,000,000 suit in San Francisco federal court against Southern California Edison and Kidder-Peabody & Company charging violations of the antitrust laws and unlawful interference with its lender contracts and negotiations for future financing.

The San Francisco-based company is engaged in the business of generating electricity from geothermal resources located on Navy property in Inyo County. Its nine turbines and generators there produce electricity sufficient to serve 240,000 households. Its total output is under sales contract with Southern California Edison for a period of 30 years with annual gross sales of $200 million.

The complaint, filed by Joseph L. Alioto of San Francisco, charges that the defendants conspired to drive California Energy out of business to preclude its expansionist programs in the Cascades, and in the States of Nevada and Utah where last year it acquired valuable geothermal resources and facilities from the Chevron Company.

Charles T. Condy, Chairman and CEO of California Energy, declared: "The monopolistic actions of Southern California Edison to destroy this company will not succeed. We have every confidence that the Courts will vindicate our claims and put a stop to Socal's predatory business behavior."

Alioto said "Geothermal steam is the cheapest and cleanest way to generate electricity. It is the best of the alternative fuels promoted by the government to lessen American dependence on Arab oil. Huge geothermal resources in western basins await development by companies who will sell on the competitive merits. Southern Cal Edison with its fossil fuel plants has tried to stunt the growth of this aggressive competitor."

The suit also names the New York investment banker Kidder-Peabody as a defendant, charging it with organizing a bear-raid on the company's stock to discourage the company's lenders and investors.

Additionally, the suit asks that a proposed merger between Southern California Edison and San Diego Gas & Electric Co. be enjoined on the ground that it will result in a monopoly in Southern California, and deprive California Energy of a competitive outlet for its geothermal-based production.
III PRIVATE LAW PRACTICE

Office Startup

Hicke: Let's just talk a bit about when the war came to an end and you were going to move out of this job and into private practice. What were you thinking about?

Alioto: When I went into private practice, I was at that time representing the fish industry. That was my main source of income in '46 and '47.

Hicke: Did you ever think about joining a law firm? How did you decide what you were going to do?

Alioto: No. I guess some of us were born to be individualistic and don't like partners, don't like the idea of partnerships, who like to be able to be completely free to act any way we want to act. This is what appealed to me. So I went immediately into private practice.

I had, at that time, two basic customers: the fishing industry in San Francisco and the fishing industry in Monterey. These people were all relatives of mine, basically. That gave me enough to get going. I started alone in an office at the 111 Sutter Street. I just rented space from a man named Al Rosenshine, who had been the superintendent of banks in California, and he had also rented space to a very venerable figure on the [state] superior court bench: Judge Walter Perry Johnson. I remember taking my original complaints in the national lead case, which was the first big antitrust case I handled, and later in the uranium, vanadium case, the Continental Ore case, with Judge Walter Perry Johnson for review.

[tape interruption]

Hicke: You were just telling me about your office space at 111 Sutter.
Alioto: Yes, I had an office. It just fit a desk and me and two chairs, with one foot between the desk and the wall, that I rented for, I forget, $100 a month, I guess it was. That gave me access to a library. So, I started in representing the fish industry.

Hicke: What kinds of work did you enjoy?

Alioto: What kinds of work were interesting? They were talking about outlawing fishing in the Sacramento River, for example, to commercial fishermen for the benefit of sportsmen. I thought that was unconstitutional and brought a suit to try to stop it and got kicked out, being told that the right to fish was a privilege and not a right. That sounded to me like complete nonsense. It still does, but that's what we were told. Then I just represented them. My dad had a wholesale market and my uncles had competing wholesale markets. I represented them in various things relating to incorporations and leases and things like that. Then the big break came in 1948 when I was asked by the Wyodak--Wyodak is a combination of Wyoming and Dakota--Wyodak Chemical Company to bring an antitrust case against the National Lead Company.

Hicke: How did they come to you? How did they find you?

Alioto: That came to me through a lawyer in Los Angeles who was a patent lawyer, and his client was being sued for patent infringement. I told him at the time that the defendant, National Lead, was a dominant factor in the bentonite industry. Bentonite is a chemical that's used to drill oil wells. It's an unpatented product, but they had a patent on a process for using bentonite to drill oil wells. They simply put out a circular saying that, "You can't get a patent license unless you buy the bentonite from us." In other words, they tied the unpatented product to the patent.

My client only sold bentonite, so he was being excluded by this device, and we brought a case against the National Lead Company. What was great about that case: we filed a complaint, took one deposition of the chief executive officer of the National Lead Company, and they gave us a settlement at that time. I'll always remember it; as a result of that deposition, they gave us a settlement for $215,000. My fee in that was $60,000, and the patent lawyer and I split that. We got $30,000 each. Considering that I made $400 a month, $500 a month with the antitrust division, that was a big deal: $30,000 all at one time. That was a big fee in those days, $30,000.

Then as a result of some lawyer learning about our success in that case, just by filing a complaint, I was hired by Goldwyn and Disney through their lawyers to bring actions for them. That
started me on the way, and it hasn't stopped to this day, except for an eight-year sabbatical.

Hicke: If you can call that a sabbatical!
Alioto: Eight-year sabbatical in the mayor's office.

San Francisco Legal Scene: 1940s and 1950s

Hicke: Tell me a bit about the legal scene in the 1940s and 1950s in San Francisco. What else was happening?
Alioto: The legal scene: you had some great lawyers around. Theodore Roche. Taafe I think had died by that time. He died young. John McNab was around. I developed a very, very close friendship with Theodore Roche. The federal bench at that time had some rather unusual personalities on it. Judge [Adolphus] St. Sure was one of them, and one of the best of them was the most humble of all: Judge Mike Roche. Michael Roche had been a member of the Iron Workers Union, had been an iron worker, and then he became a lawyer and was appointed to the federal bench.

Some of the Ivy League lawyers of the day--we still have them; you can recognize them with their button-down shirts and the fact that they wear brown shoes with dark suits; that's a kind of a uniform--they are graduates of the Ivy League law schools. They used to be critical of Judge Roche, that he wasn't as intellectual, as educated as the other judges. But, Judge Roche had an incredible intuition, if you will, or an incredible sense of what's right, what's wrong. Kind of a sense of justice. As a result, he had a better record on appeal than any of the judges around.

I had tried cases before when I was with the Department of Justice. A lot of the grand jury questions which are Horn Book stuff today were being decided in those cases. One of those cases was in the Supreme Court, Roche v. The Evaporated Milk Company, in which they brought a writ to stop some kind of a prosecution in his court--I'll always remember after we lost that in the Court of Appeals for the 9th Circuit, the judge telling me and Tom Clark, in there together, he said, "Some judges have been known to punch litigants right in the nose who were afraid to take an appeal from a bad decision." We did appeal it. We did appeal it and won. It's a famous case today, Roche v. The Evaporated Milk Company, having to do with the grand jury and the power of the grand jury. It's in the Supreme Court. That was the dominant bench.
Maurice Harrison was living at the time and I had worked for three months in Harrison's office. I think I told you about that.

Hicke: You told me a bit about him.

Alioto: And Maurice Harrison had sponsored a scholarship for the Catholic University of America, which I won. I had met Mr. Harrison when I made a valedictory talk at St. Mary's and he was principal outside speaker of the day. When I won that scholarship, I went back to Catholic University of America Law School at a very interesting period, '37 to '40. All the actions in the world were taking place, including the invasions of Austria, Czechoslovakia, and finally the war in September of 1939. These things all took place during this period of time. I used to run down to the Supreme Court to watch those people in action--Stone and Cardozo.

The legal scene at that time in San Francisco was dominated by Pillsbury, Madison & Sutro; Brobeck, Phleger & Harrison; and Morris Doyle. I think that the comparisons are always invidious, but nevertheless, Pillsbury, Madison & Sutro had a great trial lawyer at that time named Gene Bennett. He was a very handsome Irishman and a great trial lawyer. Brobeck, Phleger & Harrison: both Phleger and Harrison were living, and Gregory Harrison was living as well.

Hicke: Did you know Herbert Clark?

Alioto: I really knew Herbert Clark. Herbert Clark was involved in a very notorious case. I was on the other side and Judge Roche gave me the decision against Herbert Clark. You've got to read this case to know it. The case is called Walker against Walker but it's not a divorce case; it's at 90 Fed. Sub. 1. Herbert Clark was fond of telling everybody that he was the prosecutor in New Mexico and prosecuted the Last Stagecoach Robbery. And then at the other side Clark would speak rather pedantically--as good a word as any--about Lord Cook and Lord Nancefield. He looked like the old cowboy actor, Bill Hart. Looked just like Bill Hart. He always amused me.

This was very serious litigation between scions of one of the richest families in America, the Red River Lumber Company, the Mobasi Iron Range, Walker Art Gallery of Minnesota at Minneapolis. It's one of the most important cases involving the seizing of partnership opportunities and not letting your partners in on them.

It involved a man who bought timber rights from his own people and resold them at a huge profit instead of giving the original transaction to his cousins and to his brothers. The
Brooks Walker family, the Kenneth Walker family, these people were very, very prominent in the life of the nation. In fact, there was a time when President [Richard M.] Nixon was accused as a vice president of having a group of rich Republicans subsidize his living. And Kenneth Walker happened to be the chairman of that group that was subsidizing the living of the vice president of the United States, including paying for his maid.

Of course, Nixon said at that time in his usual deceptive way that that money just was for the purpose of paying him for carrying on the fight against the Communists. I don't know how paying for a maid really helps the fight against communism, but it seems to me that even philosophically that would be a little bit inconsistent. But nevertheless, in that Walker litigation, Herbert Clark was on the other side.

Hicke: Which side was which?

Alioto: I represented the plaintiff—the people who were deprived of this partnership opportunity. And he represented the entrepreneurial person in the Walker family who went out and was dealing for himself when he should have been dealing for the family. It was bitter litigation, because this was one of the wealthiest families in America at the time. Still is, I guess. They owned all of the timberland from the Red River Lumber Company and around the Susanville area, and they got into big fights with the labor unions, you may recall, during the labor union period. They were marked particularly as anti-union or union busters and those who had discriminated against working men.

But anyway, I represented the family against Kenneth Walker, and Herbert Clark was on the other side. As I say, he loved the trappings of the law. Loved to discuss British chancellors. Was somewhat, I thought, pedantic in a way. Everything was [Inaudible] "Lord Cook, Lord Mansfield has said," and we got into some very bitter battles. But I won that case. It was tried before Judge Roche and was kind of an interesting case because of the personalities involved. About a year later—

Hicke: About what year was this case?

Alioto: Must have been about 1951, '52, '53. I was a very young lawyer at the time in my thirties, early thirties. I got that case because one of my associates was married to one of the Walker women and he had the case and then had me try it, that is what happened. They didn't think there was much chance of winning it, and we won it. They had lawyers from Minneapolis and then Herbert Clark. Herbert tried this himself.
One of the things about Herbert Clark is, you know, you can't talk down to Judge Roche, because he was a humble man and because he had this strong intuitive sense of justice, what was right, what was wrong, kind of a natural-born concept of being able to discern what was right and what was wrong in the situation, regardless of the labels that were put on it or the colorings that might have been put on it.

Herbert had a way of talking down to Judge Roche as though Judge Roche were his intellectual inferior. That was a bad idea with Judge Roche. It might have been all right with some other judges who might have been intimidated, but this old ironworker, who was one of the members of the Ironworkers Union, wasn't intimidated by Clark. And he really let him have it. Kind of dressed him down a good deal.

There was another interesting episode when Mr. Clark's learned veil somewhat slipped. There was a case in which an industry, plumbing industry, the sale of plumbing fixtures, was accused of price fixing through the use of a book, like the blue book in the automobile field. I represented the man who printed the book, and Herbert represented the big plumbing manufacturing company. We were the only two lawyers in the case in the very beginning. So we were collaborating now. We had been rather bitter opponents. Now we were collaborating.

At one point at a meeting he and I were alone—we were relatively young lawyers; the age of innocence hadn't quite expired yet. It almost did during that wine case, the Borax case. But we were just talking about defending this case, and Herbert said, "It would be great if we could just confine the defense to you and me and not get other lawyers into this thing, because I tell you something, this will be a hell of a meal ticket for us." So that's when the Lord Mansfield veil and the Lord Cook veil and as Cardoza would say, all of those veils all dropped at the same time and now we had the old stagecoach prosecutor from New Mexico, who on that day looked like Bill Hart, and it always amused me that he did look like Bill Hart. But he was a very competent lawyer and he was great on client relationships. But because of his personality, he was not in my opinion a great trial lawyer. He was no Theodore Roche, no Arthur Dunn. Thought he was but he wasn't. No Maurice Harrison. No Herman Pfleger or John L. McNapp. He wasn't in that class, although I think he thought he was.

Hicke: Did you know Mr. [J. Franklin] Shuman?

Alioto: No, but I knew Roland Foerster.
Hicke: Oh, did you?

Alioto: Very interesting. I got into a big argument with Clark. I didn't know Foerster personally. I knew him through a very famous letter. There are very famous letters in the history of the literature of the antitrust laws. And this one's out in public print now. No violation of confidence or anything.

One of the famous letters, for example, was written by a man named Du Pont in connection with the Chicago grand jury, where he said the same thing that the wine people had said. "This letter violates the antitrust laws so be sure to destroy it when you receive it." And he kept his copy in his file, too.

But one of the most famous letters in the literature of antitrust is one written by Foerster. He was the director of Food Machinery [and Chemical Corporation]. At one juncture he wrote a letter—and I'm doing this from memory, but this is the substance of it: he says, "As your lawyer I must advise you that the plan you are proposing violates the antitrust laws in more ways than I have time to tell you. But as your director, I am telling you that it would be a very profitable plan, and therefore I suggest we take the calculated risk." This was Foerster, and when I got into a beef with Clark I told him that. Not a beef with him, but some argument. He had a way of talking down to people, and I'm like Judge Roche, I don't let people talk down to me. I was much younger, of course, than Clark. At the time we tried this case I was in my thirties and Clark I guess was in his sixties.

Hicke: What was his reaction to this story about the letter?

Alioto: Nothing. Everybody knew, those insiders to the antitrust law and literature knew about the thing. I forget, I guess I started out by saying, "Don't give me that holier than thou attitude. You aren't much different than your partner who..." If we had been in a courtroom or in a corridor.

But he was in his way a great lawyer and a very interesting personality, and he was also kind of a perennial sophomore about college things. He liked to talk about Cayuga's waters, far above Cayuga's waters¹ and quote the fight songs of various colleges. And it's a fellow who was never a great football player or athlete himself in his life who liked to associate himself with images of

¹Quote from Cornell University's Alma Mater song: "Far above Cayuga's waters, with its waves of blue, stands our noble alma mater, glorious to view."
college fight songs or college hymns. He was always speaking in terms of this great erudition he possessed.

But an interesting guy. I wish we had more personalities like him these days instead of these dog-eat-dog lawyers that we know about these days, particularly in connection with this crazy discovery practice, which has now developed to be 95 percent of the law business. Or 95 percent of what lawyers charged for doing.

Hicke: There's an old saying which is very old I'm sure. It used to be trial by ambush and now it's trial by paper.

Alioto: It's a ridiculous paper chase. And we try to cut through all of that. One of these days some of these corporations—well, a lot of them are getting tired of it now, the kind of legal bills they're getting for squads of young men and women being assigned to do discovery work, 95 percent of which never sees the light of day in a courtroom, maybe 98 percent of which never sees the light of day in a courtroom. And it isn't really quite necessary. They think it's a method of harassment. It's a defense tactic to carry kind of a war of attrition against plaintiffs who may not be as well-heeled as the defendant.

Samuel Goldwyn Case

Hicke: Okay. Is it time to start talking about Samuel Goldwyn? When did he come along?

Alioto: I brought a case with Samuel Goldwyn that was brought to me by a lawyer for an association of something called the Society of Independent Motion Picture Producers. And that society included Goldwyn, who was an independent producer, Disney, who was an independent producer, Walter Wanger, who was an independent producer.

I represented them first in a case filed in Detroit against a combine of theaters in Michigan known as The Cooperative. The Cooperative had a buying combination where a central agency bought for all of them. A picture, for example like Disney's Snow White got something like 7 percent of the box office return, which was a disgrace. Today they're getting 70 percent; the producers are getting 70 and 90 percent of box office returns. They got 7 percent. And then Goldwyn had great pictures like The Best Years of Our Lives, which had just won the Academy Award at that time. They were getting piddling rentals from this organization.
Goldwyn was a tough guy. He decided to take them on. So he and Disney joined in that lawsuit.

Hicke: Do you recall the name of the suit?

Alioto: Yes, the name of the suit was Society of Independent Motion Picture Producers v. The Cooperative Theaters of Michigan. And there are some preliminary motions about. Because we filed the suit there, they subpoenaed Goldwyn to appear there in Michigan to harass him. And we fought that. There's a preliminary decision you'll find in the book which will say that if we filed the case in Michigan we have to go there. It's no longer the law, you know. I don't think it's the law any more. You have a right to go in a court and have them set the depositions for reasonable places.

But I recall Disney didn't fly in those years. Or he preferred not to. In any event, when we brought Disney up for his deposition, I took an overnight train trip with him, just he and I and the counsel for the association, the Society of Independent Motion Picture Producers, who brought me into the case on the basis of the National Lead case basically.

I took this overnight ride with Disney, who was really a great person as well as somebody who created something distinctive as far as entertainment is concerned in America. He was a very, let's say a humble person in many respects, and a very nice person. Goldwyn was just the opposite. He was one tough customer.

After I got that suit then, Goldwyn got into a real dogfight with the Scurases, dominated 20th Century Fox. Spiro Scurase was the president of 20th Century Fox. His brother, Charles Scurase, was the president of National Amusement in theaters throughout the country. They had about 500 of them. And George Scurase was the president of United Artists Theaters, a combine of theaters which Goldwyn and Joe Skank and Mary Pickford and others had set up to get away from the monopoly chain theaters. It got to be a real dogfight. And you'll find that in the books, 9th Circuit, 20th Century Fox v. Goldwyn.

We lost a lot of preliminary motions in that case, which restricted us to a limited number of pictures on the basis of the statute of limitations. But on appeal we were able to show that the statute was tolled because of the pendency of the government case. And so we were able then to go all the way back to—

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Alioto: We were able to go back to *Magnificent Obsession*, 1938, the picture with Merle Oberon and Lawrence Olivier. And the other pictures involved were the Danny Kaye pictures, *The Secret Life of Walter Mitty* and the Bob Hope pictures, *The Princess and the Pirate* and *The Best Years of Our Lives*, of course. The other pictures involved in that included Hans Christian Andersen and *Guys and Dolls*, which came later.

We spent a lot of time taking depositions and things like that and having conferences down at the Goldwyn studio. As a matter of fact, I was there when they were filming Jean Maire, the French dancer in *Hans Christian Andersen*, and Danny Kaye. Goldwyn's office was right on the lot itself.

He was an unusual personality. The defense lawyers were Arthur Dunne, Kagel, Royal--General Royal's firm in New York.

Hicke: Sam Kagel?

Alioto: No, no, not Sam Kagel. It was a big law firm in New York that represented 20th Century Fox. Arthur Dunne tried it for him locally, and we won the case and then won the appeal to open up the case, and then it was settled for all of the cases.

That was kind of an interesting thing. We started that case in July, and we tried it before the court without a jury. The court was Judge Ed Murphy. I had tried certain criminal cases before Murphy at that time, including the case involving the owner of Rossi Market, a very prominent citizen who came into this country with his dead brother's passport. I told you about that one.

But in any event, we tried the case before Murphy for six months. And then we had witnesses like Cecil B. de Mille, Goldwyn, of course, Mary Pickford. It was a star-studded cast of witnesses for an antitrust case.

I'll always remember an episode with Cecil B. de Mille that amused me. We were up in the Fairmont Hotel and he was looking out the window and pointed to the Italian church in North Beach, the one you're looking at right now. That one right there. He says, "You know, that's the church I used in the great picture, *The King of Kings*, to show the destruction of the temple." I said, "How'd you do that?" He said, "Well, they were building it at the time." So he took the picture at the time they were building it as the destruction of the temple.

Then he was there personally. One of the standards in terms of damages in antitrust cases is the competence *vel non* of the
plaintiff, the competence of Goldwyn. He was there to testify in favor of Goldwyn, and he told us in the hotel room in the interview, he says, "I will say that Goldwyn is the most competent producer in Hollywood." That was going to be his testimony. Now he takes the stand. I asked him the question about his acquaintance with Goldwyn and then his opinion about Goldwyn's competence. And his answer was, "Mr. Goldwyn is the most competent producer in Hollywood, present company excepted."

So afterwards I kidded him about it. I said, "Mr. de Mille, didn't you tell me you were going to say he was the very best of all?" He said, "Yes, but I was under oath; I had to tell the truth." So we laughed about it.

Mary Pickford testified. We had interviewed her in her famous home. What did they call it, the combination of Pickford and Fairbanks? Pickfair, the famous home in Hollywood, when she was married to Douglas Fairbanks. But this time she was married to the younger man, what was his name? You're not au courant on motion pictures?

Hicke: No, I'm not much of a movie fan.

Alioto: We interviewed her in her home, and she told the story of how, when she was America's sweetheart, she'd pass these theaters in New York with these incredible lines around the corner and then when the theater exhibitor--these were all the chain theaters, the Loews, RKO and 20th Century Fox, all of the chain theaters--when they'd tell them the receipts, they'd tell them, "Well, we just broke even." Give them a lower figure.

So on the basis of that they then organized United Artists Theater Circuit. This was organized by Goldwyn, Miss Pickford, Mary Pickford, Douglas Fairbanks, and Joe Skank. So she told that story in her testimony as to why they organized this thing. And its relevance to the case was that shortly after they organized, 20th Century Fox took it over, made a deal with Joe Skank.

That was a real dogfight. It was carried in Variety every day. If you want to see the story of the Goldwyn case, just pick up Variety at the time of the trial. We tried it over a six-month period of time. But many times we'd show up in court--including one day when Goldwyn was to testify himself--and the clerk would come out and announce that "Judge Murphy is indisposed. There won't be a trial today." That happened about maybe twenty-five times from July to December.

Then the climax of the story. He set down December for final argument in the case, and the night before the final
argument Judge Murphy died. He was down spending a little vacation down in the valley with Ray Robinson, who was a very prominent lawyer at that time and well known. And he died. And so it was a question of having to try the whole case over again.

But we finally agreed--because it had been such a long trial, longest trial in federal court up to that time; it's since been surpassed by a couple of cases of mine and then others--we agreed to submit the case to Judge Harris on the record. We would simply file briefs and argue to him for two days about the way it was. He gave us a judgment in our favor just for the three pictures involved: $300,000, $100,000 a picture. And then when we got the court of appeals to reverse his ruling on the statute of limitations and we were able to go back not just to 1945 but all the way back to Magnificent Obsession, we settled the entire case for over $2 million, which in those days was big money.

A lot of interesting sidelights came out of that case. Years later, when Merle Oberon was married to Bruno Paglai, who was an Italian who lived in Mexico, and who was a very, very wealthy man who had established the aluminum industry in Mexico, I was in Mexico City one day she said she wanted to see me. It was the night before she was preparing for a major party, and she was along in years at this time. I always thought she was a great actress and a very, very beautiful woman. They've had some scandalous things written about her in the recent biography of Goldwyn.

But she said she wanted to talk to me about something. I said, fine, so I went out to the house. And here was this house, heavily guarded, dogs, guards, guns, all around the place in Mexico City, which is a hell of a way to live. Once you got inside, though, there were Renoirs, Picassos all over the place.

I was down in the library with Bruno Paglai, whom I'd known, who had actually come out of San Francisco. He was a stockbroker for A. P. Giannini in the Bank of America days. She couldn't come down to talk to us because she was getting ready for the party the next night that we were invited to, but I had to be in New York and I couldn't go. It was for the opening of her last picture, which was a real, real turkey and was subsidized by Bruno Paglai, who was a very wealthy man. This was that picture where she walks into the ocean at the end, just walks in, keeps walking in the ocean. And it was a bad one. It was a bad one. Later on she made a public statement about it herself.

She talked to me from upstairs through a communicating system. I'm down in the library. And she wanted to know--this was in the seventies. She had made this picture in '38. She sees
it on television virtually every night. Why can't I get some money from it? She wanted to bring a lawsuit based on that. I told her that in her case maybe it wouldn't work out, that television was something maybe that should have been foreseen.

Later on I advised another very, very famous star of that day, a woman well known in this area, that the sale of her pictures on video cassettes I thought presented a different question. It may be in terms of an equitable principle of what is right and what is wrong. And maybe she ought to sue for a royalty on all of the video cassettes they're selling and renting of her pictures. They were legion and they were among the most popular in America, but she decided she didn't want to do it for political reasons.

Merle Oberon thereafter fell in love with the guy that she made the last picture with and left her husband. And he left her too. It was a mutual feeling. Paglai was one of the great industrialists of the world. He used to come to San Francisco for Rockefeller conferences of Great Industrialists that Rockefeller used to hold here about every two years or so, David Rockefeller. During those times when I made the opening addresses as mayor I saw him again. We recalled that episode where his wife was upstairs with all the pancake makeup on her, or whatever it is, all the mud when she was getting ready for a party the next night to celebrate the opening of this turkey film, this last film of hers.

Later on I had her come out. I was mayor then of San Francisco, running the motion picture festival each year at the Palace of Fine Arts, which we built for the festival. I had her come out in connection with a retrospective, and they showed all of her great pictures. She was a great actress, particularly in Magnificent Obsession, These Three, The Scarlet Pimpernel and was still a very beautiful woman at that time, hiding all of her jewels because she was afraid somebody was going to steal them. And asking me to stay close to her so people wouldn't bother her. She was kind of a fussy woman, but a very beautiful and very talented woman.

That was one of the episodes that grew out of the Goldwyn case. And there was another very interesting episode. The president of the Goldwyn company was a man named James Mulvey, who was vice president of then Brooklyn Dodgers, and he was in the process of moving the Dodgers from Brooklyn to California at that time. He also engineered moving the Giants out with him, so that natural rivalry would continue.
He debated a long time about whether he was going to take them to Los Angeles or San Francisco. He stayed here for six months. He had stayed in the Fairmont Hotel for six months during that trial, the Goldwyn trial, because he was our chief witness. And he established a point in the Goldwyn case that the president of a company can get up and give an opinion about what the picture would have done in the absence of monopolistic practices.

He said for example that *The Secret Life of Walter Mitty* would have made 40 percent of box office instead of the 12 percent that it did make, or the 30 percent that it made. That testimony was permitted. And that's a leading case on that issue now. That's sometimes the only type of evidence you can possibly produce, because the defendants themselves have made it impossible to produce any other kind of evidence by their wrongdoing.

Hicke: Was that your argument?

Alioto: Yes. And it was accepted. It's an important case. You'll find that in the books as *20th Century Fox v. Goldwyn*. It was interesting because at that time, they left Brooklyn because of the free television contract, and they came out here with a motion picture personality, a guy named Mattie Fox, who was going to have something called subscription TV. The fellow who killed subscription TV was Charlie Scurase, who was a defendant in the Goldwyn case, who didn't want competition from subscription, or pay TV as they called it then. It was just in its infancy. He was able to lobby against it successfully and killed it off, just as he killed the drive-in theaters by insisting that they put in daylight savings time for the purposes of keeping the drive-in theaters operating later than they normally would have operated. A lot of these things came out of that motion picture business that we were involved in.

So in any event, it later worked out that the Dodgers did move out here. Unfortunately, they went to L.A. instead of here, and they have become, as you know, the most successful franchise in organized sports today.

Hicke: Yes. I'd like to hear more about some of the people and any other anecdotes.

Alioto: That's pretty much the story of the Goldwyn case. The Goldwyn case opened up distribution, taking the theaters away from downtown where you had to go and putting them in the neighborhood theaters where you're going today. The Goldwyn case was very instrumental in bringing that about, because when he was ready to distribute *Hans Christian Anderson*, we were fighting all the major theaters at the time, major theater owners, and chain owners. And
so he went down and rented the Stage Door Theater, 400 seats, unheard of at the time, and ran Hans Christian Anderson there for seven months and took out of San Francisco the biggest box office gross that had ever been taken out of San Francisco up to that point.

This was the kind of thing that broke the grip of the downtown theaters, the downtown monopoly on first-run product. Now of course all the first-run product is in the neighborhoods, as you know, and not downtown any more. So that was basically the Goldwyn case.

One other kind of interesting episode came out of that. James Mulvey had a very famous son-in-law. You wouldn't recognize the name, but all of the sports fans would. His name was Ralph Branca. He was a good-looking, southern Italian, who was a pitcher for the Brooklyn Dodgers. He was a great pitcher, but like Roger Craig, who will always be remembered for dropping that ball in the closing minute, Ralph Branca is remembered as the guy who threw that great, big grapefruit at Thompson, who hit the home run in the Brooklyn Dodgers and Giants championship game in the Polo Grounds. The batter was Thompson. And he hit a grand slam--cleaned up the bases and won in the ninth inning. Branca will always be remembered for that, even though he was a great pitcher.

Branca showed up for one of the press interviews one day. There was Goldwyn, Mulvey, Branca, myself during the trial. And the minute they got Branca's name, a couple of the reporters recognized it, of course, and all of the questions got directed at him instead of Goldwyn. So after the conference was over, Goldwyn, who was a tough guy, as I say, went over to Mulvey and said, "From here on in, I don't want him in any of my press conferences," meaning Ralph Branca.

So that's pretty much the story of the Goldwyn case. We won it. It was an important case in motion pictures. It also opened up the question of the incredible expenses that the theater owners used to charge against the producer. Charlie Scurase had a gym down in Los Angeles, a kind of a famous gym, and he was charging the expenses of that gym to the motion picture producers under some guise that he called corporate expense. We developed all of those things. Literally, the Goldwyn case revolutionized the way motion pictures were distributed and the way the producer was paid for motion pictures. From a position where the producer was getting 7, 8, 9 percent--25 percent was considered extreme--they're now getting 70 to 90 percent, which I think is the way it ought to be.

Hicke: What was Mary Pickford like?
Alioto: Mary Pickford was a very charming woman, very lovely woman. Of course, she was incredibly short.

Hicke: You can't tell that on the screen.

Alioto: You can't tell it that much in the motion pictures. Incredibly short woman. Very pleasant, kind of a bright woman. And very attractive even as a very old lady. I guess at this point she was close to seventy years old. Very diminutive. Very attractive woman. And she had a good sense of humor. She told some great stories about Goldwyn, how tough he was on actors; once he signed them to big money, he expected them to work hard. One of the legendary stories they tell is that he was told that Mary's walking to work early this morning. He says, "For this kind of money, she shouldn't be walking; she should be running."

He was very tough with actors and actresses. He was a tough guy. But he had a knack. He did great things. He organized a society called Eminent Authors and brought in Sherwood Anderson and Sinclair Lewis. He did Babbitt, you remember, and did classics like Wuthering Heights, Hans Christian Anderson, right to the end; Guys and Dolls is a modern classic. He was a great motion picture producer. But in terms of personality, a very tough guy, as distinguished from Disney who was a relatively gentle man.

Hicke: What do you think Disney had that made him so successful?

Alioto: Who, Disney?

Hicke: Walt Disney.

Alioto: Well, Disney was just this great, creative man. Incredibly creative. In other words, here's a man who introduces a new art form when he came out with Snow White, which I think was a full-length cartoon, full-length picture rather than just a cartoon short. The only people who would back him on that picture were the Gianninis. Everybody else said, "You're going to ruin your eyes watching a full-length picture which is basically a cartoon," which is baloney, again turned out to be baloney.

He was just a very creative man who was able to, in the guise of comedy, touch all of the family values that basically the majority of the Americans held. He was able to accomplish this in an era where everybody thought you had to have sex and violence as necessary ingredients for popularity of pictures. So this was great creativeness, I think.
He was an unusual man, at least in terms of professional representations. Most of the time we were talking to Roy Disney, who was running the business side of it. But every time somebody wanted to do something, depositions or otherwise, they always noticed Walt Disney, I guess because of his prominence.

One episode during that time when they were taking Goldwyn's deposition: we were sitting in the studios in Hollywood, the Goldwyn studios. I think he had a very famous fight with Mary Pickford over that, but by the time the trial was on that fight was over and people had forgotten about it. As you get older you forget about some things that were very important to you in your earlier life, maybe a squabble or controversy.

But right in the middle of it—it was a very smoggy day in the southern California basin. Goldwyn says, "To hell, we don't want to be taking this deposition here. All of you come on down to Palm Springs right now, and tomorrow morning we'll start taking it in my home in Palm Springs." So we finish taking the deposition in his garden, his rock and palm garden in his home in Palm Springs. We stayed there for about three days, during which he berated the lawyer on the other side, Freddie, from the Royal firm, berated him because he had once represented Goldwyn in a fight with United Artists about twenty years before. And Goldwyn kept saying this was a conflict of interest. He said it might even be collusion.

But there were ten sessions there, rather enjoyable. Jim Mulvey was a very unusual man, president of the Goldwyn Studios. I developed a very close friendship with him over the years both because of the baseball stuff and because by the time of the trial, I had handled the Raddevitch case in the Supreme Court, which held that the National Football League was subject to the antitrust laws. And Mulvey and I used to talk a lot about sports franchises and rules of baseball associations and players' contracts and things of that nature.

Hicke: How are you doing for time?

Alioto: Well, I would like to do something else. Can we take another session some other day?

Hicke: Absolutely.

Alioto: Fine, that's great.
IV SOME IMPORTANT CASES

[Interview 3: March 4, 1991] ##

Impact of the Warren Court

Hicke: We talked about some antitrust cases the last time and I think we're about in the fifties now, but I thought I'd start with kind of a general question: what was the impact of the Warren court on your work and the antitrust litigation?

Alioto: The Warren court happened to have some of the best antitrusters, as we view them, in the history of the antitrust laws, which were enacted in 1890. The Warren court had on it Justice [William O.] Douglas. It had Justice [Hugo L.] Black. It had Warren himself. Justice [Byron R.] White. I argued two cases before that Warren court. One was Continental Ore against Union Carbide, and the other was Utah Pie Company against Pet Milk Company and others. The Warren court was very antitrust-minded. It was pro-antitrust rather than anti-antitrust, as I think it's developing in this present court.

That raises a question: how can there be a pro-antitruster or anti-antitrust? All of us believe in the free enterprise system. The antitrust laws are the basic expression of that free enterprise system. It is our charter of economic liberty as the Court itself has said on many occasions. But there are many lawyers who came out of the corporations, many judges who came out of the corporations, which have been more identified as antitrust defendants rather than antitrust plaintiffs.

When there are close questions--how much evidence do you need to prove a conspiracy to let a conspiracy go to the jury?--when there are close questions about to what extent inferences from business behavior might be used, if you have a corporate defendant's background, you're likely to stay on one side of the line as against the other. In the Warren court, particularly with Justice Douglas and Justice Black, they looked right through all
of the sham and were able to say that this kind of business behavior obviously supports an inference of conspiracy to restrain trade, as against doing business as usual or making an independent business judgment. There is no doubt that the Warren court, in its decisions, very, very much advanced the antitrust laws, as far as the plaintiff's side of the case is concerned. We won both our cases up there, as you know. Both Continental Ore and Utah Pie, in both cases reversing once in Court of Appeals to the Ninth Circuit in the Continental Ore case and the Tenth Circuit in the Utah Pie case.

More on the Wine Industry

Hicke: I wonder if we have some time to continue on with the wine industry here, because I know that you represented Krug and you were a counselor, actually, to the Mondavi family. And maybe you could just tell me how that all got started and where it went.

Alioto: We didn't discuss the wine case other than the government wine cast last time?

Hicke: That's as far as we got. I don't know how you continued to be involved.

Alioto: After I left the Department of Justice--I think I've already told you about my background and experience with the wine industry, starting in North Beach, and I think I told you the story of the great inventor, Gugliemo Marconi, and his visit to San Francisco. So I was heavily involved in that wine industry case in the Department of Justice, which we covered last time.

But I continue today to remain rather active in matters that relate to litigation in the wine industry. Not a consultant with anybody or a consulting lawyer or anybody's contract or leased lawyers or acquisition lawyers, but we have had a case involving the Mondavi wine people that became a rather famous case. This was a family dispute between the brothers Mondavi, and I was on the board of the Charles Krug Wine Company at the time this happened.

Hicke: Let me back up and ask you how that came about?

Alioto: I'm trying to think about who actually invited me on that board. My recollection is it was a man named Fred Ferroggiaro, who was A. P. Giannini's right-hand man and a very active loan officer at the Bank of America and a high executive--vice president of some sort
--of the Bank of America. When he retired, he took over some of the accounts with which he was familiar because of his background as a banker. One of them was the Kaiser Company; one of them was Lucky Stores, and another one happened to be the Mondavi business.

I was called one day to serve on the board of directors. As a matter of fact, I believe I was still mayor. It was shortly before I left the mayor's office. The reason I know that is because it was a crazy ruling that I had a good time with a little later on. I was in the mayor's office when this happened.

I was invited in at the time when a dispute had already arisen between Bob Mondavi and his brother, Peter Mondavi. I was invited in on the theory that perhaps I could be helpful in patching up the dispute to avoid litigation, and we tried very, very hard to do that.

The mother had used a kind of old-world punishment. The brothers had engaged in fisticuffs somewhere along the line, and the mother decided that Bob Mondavi should be "exiled" for six months from the business, at full salary. He was to get full salary but he was just to stay away from the business for six months. Bob wasn't about to do that and I talked to him. As a matter of fact, I met him at the opera one night. I told him to meet me at the opera and then we'd go out and talk afterwards. We were both going to the same opera. He was coming up from Los Angeles and I was here, and I tried to talk to him about coming back.

At that point, he started to give indications that he was going to go out and open up a new wine company that would be competitive with the Charles Krug company, of which he was an officer, director, principal stockholder, 20 percent stockholder. I recall the majority shares were held by his mother and his brother Peter. The mother was a very fascinating woman. She was an old-world woman who had been born in Italy and come to Ohio. During Prohibition they were crushing 200 gallons of "grape juice" as permitted by the law. Everybody I guess was, at that point. Then she came out to California. She had been a buyer of Zinfandel grapes for the husband. She and her husband came out to California and started to grow grapes and to process wine from grapes after the repeal of Prohibition. They started in the San Joaquin Valley. In 1943 they bought the Charles Krug company for what we now look at as a pittance, and in the development of the wine industry they managed to do very, very well.

Charles Krug at this point was one of the five leading vintners in the state so far as the production of quality wines or varietal wines were concerned. Anyway, this dispute developed and
the mother exiled Bob and he decided to go into his own business. I remember I wrote him a letter and said that's a point of no return if you go into your own business. Obviously, there's going to be litigation over the use of the name and everything else.¹

Bob, as I recall, finally started the litigation. He alleged that his mother and brother had combined to buy properties for the brother that he should have been in on. It was a corporate opportunity he should have had. They were able, after litigation, to get a favorable judgment from the court on those issues. We had contended that we were entitled to a jury trial all along. The court denied our right to have a jury trial. This involved contract disputes and money disputes and damage disputes, and we were unsuccessful in getting a jury trial.

After Bob had won that lawsuit, there then was settlement of the lawsuit. The lawsuit simply said that he had a right to go and operate independently in view of the fact that his mother had "exiled" him. They held that that was a termination, that wasn't just, even though they paid his salary, that in substance was a termination and he had a right go to into the new business. Thereafter the matter was settled; he retained an interest in Charles Krug and retained his interest in Mondavi and that's the way it finally worked out. It's one of those unfortunate family disputes that too often takes place in Italian-American families. There are too many of those. I've been involved in litigation over the years with a lot of that.

Bob was unquestionably the entrepreneurial brother. Peter was more concerned with production, Bob more concerned with sales. The basic dispute was that Bob wanted more production to sell and Peter wanted less production to get quality. He wanted to hold the wines and age them. This became the dispute between the brothers, as I saw it at the time. We tried very hard to get the brothers to settle the matter, but it didn't work out.

The mother herself was a very interesting personality. Her big thing in life was to invite her friends over for Sunday lunches. Mama Mondavi's Sunday lunches were a legend in the Napa Valley. We'd sit down and have seven- and eight-course meals that she would cook herself. She enjoyed cooking. They were just very sumptuous meals. Even during the litigation, Bob and Peter would both be there. The luncheon was different. The luncheon was kind of a cease-fire for the moment.

Hicke: That's interesting.

¹The Robert Mondavi Winery was founded in 1966.
Alioto: Even in that bitter family struggle. We tried hard, as I say, to get it together, and there isn't any question that the mother did in substance fire him, even though she paid him his wages. The only question was whether he had a right to go into business on his own. The court held that he did have that right. This was not just an exile or anything else. It was in fact an unlawful termination under the circumstances.

Hicke: Is it correct to say that he changed the pronunciation of their name? They used to be "Mon-day-vi"?

Alioto: No. The Italian, of course, is always "Mon-dah-vi." Bob, I believe, always stayed with the Italian version of it. His brother Peter did used to say "Mon-day-vi," because various people when they came out to the San Joaquin Valley had done it.

Those are two very, very fine wineries. Today, as you know, they both remain as great producers of varietal wines but the family relation was never the same after the mother died. The mother was an unusual woman. Despite disputes she did try to keep them together.

Hicke: Is she the sort of--I've read that in Italian families the woman is very powerful in the family.

Alioto: Of course, they always are. The mother image, it's a--I guess it goes back to a certain religious phase. But she was a widow at this point.

There was one interesting episode. There came a time when the breweries and the distillers came out and offered fantastic prices for California wineries. Schlitz came to her and offered her $32 million for her winery and at that time she had the majority ownership. At that time, $32 million was $32 million. It was a lot of money.

Hicke: It was a lot more than it is now.

Alioto: It was a lot of money in those days. I went to her and I said, "Mrs. Mondavi, you really ought to think about this seriously, particularly in view of the dispute that's going on. That's one way of settling it." She said, "But my Caesar (her husband) always told me never to sell the winery. Never to sell the winery."

I said, "Yes, I know, but when he told you that, he was thinking that maybe somebody might offer you the same kind of terms on which you bought the winery, might offer you a couple of hundred thousand dollars payable over five years or ten years."
They're offering you $32 million in cash, and you really ought to think seriously about it."

She finally says, "Mr. Alioto, what am I going to do with $32 million? Right now I have this winery. I enjoy inviting my friends to my Sunday lunches and maybe we'll just keep it the way it is."

Hicke: Good for her.

Alioto: Interesting way about women who--and you know, after she paid her taxes on the thing, she'd have still kept about $25 million of it. Just an ordinary 8 percent investment on $25 million, we're talking about $2 million a year of income that she would have had. I always remember that day, "Mr. Alioto, what am I going to do with $32 million? Can I do anything more or be any happier than I am right now?" It was just the dispute that was driving her crazy.

She was an unusual woman. Bob and Peter have had the public image, but those intimate to the Napa Valley always remember Mrs. Mondavi as a very unusual woman.

Hicke: Well, I think you probably know that this is a problem with not only Italian families but families that have businesses like wineries. What to do with them when the next generation comes along and there's two or three or four. It's happened in other cases.

Alioto: It's happened in a great number of cases, and as I say, principally with wineries that have Italian surnames.

Hicke: The Wentes seem to have worked theirs out pretty well. They have three--

Alioto: They're Germans.

Hicke: Oh, yes.

Alioto: No wonder, they're German. As you know, Carl Wente was the president of the Bank of America.

Hicke: That's right. Can you tell me anything about what you're doing now? You said you're still involved in the wineries somewhere.

Alioto: We're doing a lot. We're very, very active now. Last week we filed that case on behalf of the California Energy Company against
Southern Cal Edison.¹ We moved to stop the merger between Southern Cal Edison and San Diego Power and Light. Among other things, we also allege that they attempted to get us out of business because California Energy is a company, which is now producing approximately $200 million a year of electricity which has to be purchased by Southern Cal Edison under the federal energy laws.

It's producing this solely from geothermal steams, geothermal resources. Some of us think that that's the cleanest and cheapest way of generating electricity; that ought to be very much encouraged. The oil companies and the big, huge facilities who have been allies of the oil companies over the years don't think it's such a good idea. There have always been restrictions on geothermal resources.

We happen to have in the Sonoma Geysers a very unusual deposit. There are only two deposits in the whole world where you get pure steam out of the ground. One is in Ladarello in Italy, and it has an interesting background. It's where Dante got his concept of hell and Hades by looking at those springs at Ladarello. The other one, the only other steam deposit in the world, is actually in the Sonoma Geysers. All of the other geothermal resources you hear about involve hot water which is flashed into steam by various processes. In any event, that case we brought is a very, very substantial case.

Very recently we settled a case against Mercedes Benz.

Wine Train

Hicke: Can I just stop you? Before we got on too many of these, I really just wanted to follow up on the wine industry, then go back to the fifties.

Alioto: Oh, I see. We have not had any wine industry litigation as such since the Mondavi case. Yet. In later years, I have been consulted by various factors in the wine industry with respect to whether certain practices involve violations of the antitrust laws. In most of those cases, they indeed did involve violation of the antitrust laws. Since those early days, we've had [Inaudible] antitrust [Inaudible].

¹In U.S. District Court, Northern District of California.
Now, then there is one other element that I haven't talked about. I was consulted with respect to the Wine Train. I don't know whether you know about the Wine Train.

Hicke: Yes, I do know about the Wine Train.

Alioto: This is very interesting.

Hicke: Quite controversial.

Alioto: This is quite interesting. The extent of my consultation, other than what I have said publicly to the other side, of course, is confidential. What I said to the other side is plenty.

Hicke: What did you say?

Alioto: You know about the Wine Train. There was an old right-of-way that Southern Pacific had for passengers at a time when the Calistoga hot springs and the Calistoga mud baths were big deals with people. They loved to go up there for health reasons, so SP ran a line up there.

Then, later on, it became a kind of freight train lines for wines, but they abandoned their passenger train, announced they were going to abandon it. Then, the law permitted anybody to come in and bid to get it and keep it in operation. At or about this time, [Vincent] DeDomenico, who was Mr. Golden Grain, with a very interesting background of his own, came in. I have represented DeDomenico in the past. In addition to representing him, when I was running the Rice Growers Association, we used to sell him rice for his Rice-A-Roni. There's a very interesting way he got into Rice-A-Roni. One day he was watching his sister-in-law mix risotto and spaghetti in one dish, and out of that was born Rice-A-Roni. Very recently it was announced that Quaker Oats paid millions of dollars, hundreds of millions of dollars, for the Rice-A-Roni package and for the Golden Grain Company.

Along came a group of very smart people with an idea of running a wine train. What a wonderful thing it is. If you haven't taken that ride, you must take it. You get on the train in Napa and it winds its way up to St. Helena, with vineyards on each side of you at a time when you are sitting down in beautifully refurbished cars. Better than the Orient Express, indeed. Beautifully refurbished cars, and you're having a gourmet meal, and I mean gourmet, done beautifully. The waiters are all in very attractive uniforms. As you're eating, you have the vineyards on each side of you. It's a magnificent thing.
When I recently took a friend from the Mosel or Moselle, whichever way you want to say it, the wine district, and who was familiar with the French wine district, he said, "We would love to have something like this in the Mosel or the Moselle and something like this in the French wine country." It's really a beautiful experience. But the wine moguls don't like it.

Hicke: Whom did you represent?

Alioto: I represented DeDomenico, the Wine Train. After I took my first ride on it, I brought my friends on future rides. I think it's such a wonderful thing and it ought to be there. Furthermore, it's environmentally sound. That Highway 29 is one of the worst and most dangerous highways around. Any time we can get a half of a million people off that road it would be a nice thing. The Wine Train, if it weren't impeded as it is at the moment, would be carrying about a half a million people.

Hicke: Wasn't there a problem with the right-of-way?

Alioto: No, there are no problems with the right-of-way. They cross the highway for a while, but so what? If they slow up traffic on that highway, it's the best thing they can do. It isn't an inconvenient thing, and furthermore, in those things that the Wine Train is permitted to operate, I think it'll be such a lucrative thing that they're going to be able to accommodate whatever has to be accommodated by new construction or otherwise. Nevertheless, in this case, I ran into a lot of old friends of mine who were opposed to it. Vintners, both in the Napa Valley and some of the big vintners in the Sonoma Valley, were told they had to be opposed to it because the Napa Valley vintners were opposed to it.

There's a real combination, of course, to kill that off. They have a right to kill it off by legislation, as you know, without violating the antitrust laws, and this is what they've done. The Wine Train won the right in the Supreme Court to carry on its trade without any new environmental impact reports from the Public Utilities Commission. The environmental impact report was just a way of killing it. They were going to get mitigation. The factors there would have made it uneconomic. They won that right.

In what I think is an unconstitutional maneuver, the vintners went, the wine moguls, the wine barons, went to Sacramento and got Sacramento to pass official legislation which mentions this particular Wine Train, this particular route, saying it is now subject to the PUC and has to go through an environmental impact report. I've told those wine barons that I thought that was unconstitutional. DeDomenico has lots of friends among the wine barons so he doesn't want to sue them. He's not
suing them at the moment and is trying to work it out with the PUC.

Among the restrictions they have placed on them is first of all, they limit the number of trains you can have every week. Secondly, you can't get off the train, which is ridiculous. You have to get on in Napa and get off, you can't even get off at St. Helena at the end of the line. You have to stay on the train and go all the way back to Napa. That makes it a three-hour trip and a beautiful trip. You first have this gorgeous dinner, gourmet dinner, really gourmet dinner, with the local wine. Then you repair to the lounge car with beautiful lounge seats where you have dessert and coffee. All the time, you're looking out each side of the train at ten miles an hour through the wine country. I think it's such a wonderful thing. I don't know how it'll turn out eventually. DeDomenico hasn't made his final decision on what he's going to do about it.

I personally think if the PUC tries to impose onerous terms on him, he should challenge the law as unconstitutional. I've talked to the PUC, therefore the competence is out on the thing. I told them I thought it was unconstitutional and that we could prove it unconstitutional. There's special legislation directed against this line alone. You can't do that in this country under the due process rights.

Hicke: Who carried the legislation? Do you recall?

Alioto: The principal parties involved in carrying the legislation were Michael Mondavi, the Martini people, and all of the vintners up there. As you go along, some of the vineyards have huge signs that you see out the car window and those signs say Wine Train with a red line through them. Then they're saying they object to the toots. You have to toot so many times every time you go by a crossing. Other people tell me they love the toots. Napa Valley sometimes gets a little lonely. It's beautiful but could get lonely. Some people say they love to hear the toots of the train going by.

In fact, environmentally, it's going to take so much traffic off that very dangerous highway, it's environmentally sound and environmentally in line with what we're trying to do and I think ultimately, I like to think--Mondavi was not originally opposed to it. Robert was not originally opposed to it.

Hicke: Oh, really?

Alioto: It was later that a certain opposition developed as things got together. I think there was a competitive feature involved. Napa
Valley is one of the great spots of the world now, you know. They'll be getting millions of people going up and down that valley, and somebody that controls maybe a half million of them on that train could stop where he wants to stop, could also get into the merchandising of wine, which he hasn't done. Right now it's nothing more than a very high-class restaurant on wheels, that is all it is. A pleasant thing. How better to see the wine country?

Hicke: Yes. But apparently there are some power plays involved. Is that what you're saying?

Alioto: The power--that stuff went through the legislature like that. The wine industry is a very powerful lobby in the California legislature, very, very powerful. They lost in the Supreme Court. You ought to read that decision, it's kind of interesting.

Hicke: What was the name of the case, do you recall? Well, maybe we can find out.

Alioto: I'll get it for you before you leave. That was a very interesting thing. So, that's the last thing we're doing on wine.

[tape interruption]

Alioto: I met Joe Phelps at a dinner party. I said, "Joe, why are you folks opposed to that Wine Train? It seems to me that's one of the finest things that could be happening around there." "Well, this is the view they took and we went along with it." Phelps, incidentally, is a man who is having a second career. He was a big contractor out of Denver. He made his first fortune there and then decided to come out to the wine industry. He did an outstanding job. That's one of the finest wines in California, one of the finest varietal wines in California. He does a fine Chardonnay, really an outstanding Chardonnay.

I don't know what's going to happen on the thing. My own view is that I believe in free enterprise. This was a very enterprising thing to have been done. I think it's a great thing for the Napa Valley. I think maybe the basic problem about this whole thing and the basic opposition on this whole thing from the wine barons is that they didn't think about it and that they don't own it. That could very well be it.

Eighty percent of the Wine Train is owned by DeDomenico. DeDomenico is a very successful man, and he spent a lot of money. Financial records, public records show he spent about $14 million to refurbish those cars and do everything that had to be done. Now he's operating in the black, under a restrictive basis. My opinion is if he ever gets to the point where he doesn't have
these restrictions, where people can get off of the train, where you can have fifteen rides a week or as many rides as the public will take, I think that without restriction that property would become an extremely valuable property, that is the ownership of that railroad line and that right-of-way. Anyway, try it. I recommend it to you.

Hicke: Okay.

Alioto: It's one of the most delightful lunches you'll ever have at any time, any place.

Hicke: Well, I've certainly given up trying to drive up and down the Napa Valley, at least not on a weekend.

Alioto: It's ridiculous. It's not only ridiculous, it's dangerous.

Hicke: Okay. Is that it for the wine industry?

Alioto: Yes.

Hicke: All right. Let's go back and, as I said, I'm going to mention some of these cases and you tell me if they're important. In 1948, Shakely v. The United States. Does that ring a bell?

Alioto: No, it doesn't. There must be somebody else involved in that. Is that a tax case?

Hicke: These are ones I got from the Lexis search, and I have no idea about what they are, except they appeared under your name.

Alioto: I have an idea that that may be a criminal income tax case in which I represented a lawyer named Cosgrove and Harold Faulkner represented the collector of Internal Revenue. It was a rather highly publicized case.

Rossi Case

Alioto: Did I tell you about the Rossi case last time?

Hicke: No, but you said that was an important one.

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Alioto: The case of the man who came to America with his brother-in-law's passport?

Hicke: You told me about that in our preliminary interview but it's not on the tape.

Alioto: This case has a lot of human interest, if you will.

Hicke: Okay, great. Let's go with that one.

Alioto: There was a rather interesting case that developed in the early fifties. There was a very prominent San Franciscan—and this is all in public print; no confidence is being betrayed—a very prominent San Franciscan whose name was "Richard Rossi". The reasons for the quote will appear soon. He was the owner of Rossi's Market.

In 1938 Mayor [Angelo] Rossi, no relationship, had designated him to be his representative to go to Europe as a public relations venture to advertise our 1939 World's Fair in San Francisco. He was a very prominent man. Then one day the worst came. I read in the paper he was indicted by the United States government for entering the country with false papers. What had happened was that he was waiting for his quota number in Italy which would be a long, long time coming. A brother of his, whose name was really Richard Rossi, died in South America, and so he went to South America and took his dead brother's passport and visa position and entered the United States. Instead of using Caesar Rossi, which was his real name, he simply took his brother's papers.

Hicke: It sounds like a novel.

Alioto: It is a novel. Wait until you hear the rest of it. He went to San Francisco. He was a hard-working man, and built Rossi's Market in North Beach, a market which still exists in North Beach there at the corner of Vallejo and Columbus. A very prominent market. He became a very prominent man and a wealthy man and gave nobody any trouble.

The government indicted him and I was asked to defend him. There was no real defense of the fact that he used his brother's passport and his brother's papers, but then it developed that the government had to prove that he was Caesar Rossi and not Richard Rossi.

He had an aged mother, a lovely woman who used to walk down to that Italian church that we're looking at from her home two blocks away. She used to go to mass every morning, and this was
her whole life; her family was her whole life. The government put
her on the stand and asked her rather dramatically in front of the
jury, "Is this your son who's sitting here at the counsel table?"
"Yes." "Which son is it? Is it your son Richard or your son
Caesar?" That was the whole question, of course, and she breaks
down into tears. She's crying.

Finally, the judge--Ed Murphy was very tender with her
because he wondered why the government had made such a fuss over
this thing. He had been an outstanding citizen, and maybe in the
twenties all of us might have done the same thing to come to
America to have what America was, what it meant, the promised
land.

So, she finally kind of sobbed it out, "This is my son
Caesar, not my son Richard." He had been known, of course, as
Richard Rossi. Then the government put on an immigration official
after this somewhat dramatic scene, and the immigration official
indicated that they had an informant in the case and this is how
they found out about the fact that he was Caesar Rossi and not
Richard Rossi under his papers.

In the recess after that, his brother-in-law, who was
sitting there--speaking of Italian family disputes--went out into
the corridor and said, "Richard, if I knew the name of the man who
informed on you and turned you in, I would kill him." And, he
made a gesture of grabbing somebody by the throat.

When we went back into court, that agent was still on the
stand and he brought a suitcase with him to the stand. I said, "I
assume that those papers that you have in your suitcase have some
relevance to this case. That's why you brought it with you?" He
said, "Yes." I said, "Fine, may I see them?" And he started to
scream he wasn't going to let us, these were confidential
government papers.

Judge Murphy said, "Give them to Mr. Alioto. He's entitled
to see them in this case." He said, "These are confidential
government papers and I can't do it." The judge said, "I'll
dismiss the case if you don't do it. You go back and talk to your
superior." He said, "My superior in Washington won't let me."
"You go back and talk to your superior in Washington, and if you
come back and tell me that he won't let you show us the papers,
this case is dismissed right now."

He went in, talked to his superior in Washington, and said,
"He's asked me to turn the file over." So, he turns the file
over. I'm going through the file and discover that the informant
was the brother-in-law who was sitting in the courtroom at this point.

At the next "recess all," Richard Rossi, actually Caesar Rossi, said to his brother-in-law, "Well, are you going to do it?" That is, kill the man who was the informer. In any event, the only defense before the jury was, Isn't this a case that you ought to just close your eyes about something that happened so long ago? You see, there's no statute of limitations on a fraud like that. It continues all the time because he continued to assert and continued to file papers as Richard Rossi.

So the jury came back after a while and the judge said, "I think you simply have to convict him." In the instructions he virtually said, "You have to convict him." Then, the judge said, "We don't have to spend any time on the sentencing here. I think this is a case where Alioto will fight for fireside equity in the light of everything I've heard here, and I'm going to fine you $2,000 and you can go home." This was [Inaudible].

The government was so vindictive about it. They brought a deportation case against him to deport him.

Hicke: Oh, no.

Alioto: Now, I took on defense of that case and argued there had to be an intent in a fraudulent situation and this intent was muddied by--we won, it's in the books. We won the deportation case, so he remained in this country.

I remember one episode when the government prosecutor went up to the jury when he was telling them how this horrible fraud had occurred in South America, this man coming in and continuing to use his dead brother's passport. When he made his trip to Italy, he went as Richard Rossi. He said, "In the words of Shakespeare, 'Oh, what a tangled web we weave when first we practice to deceive.'"

I just sat there and said, "That wasn't Shakespeare. He's outside the record, Your Honor. That wasn't Shakespeare that said that. That was Sir Walter Scott, and I object to it." So we get into a big argument, and the judge says, "I think Mr. Alioto is right." This disrupts the entire argument at the time. The judge, who was a Santa Clara Jesuit liberal-arts scholar, prided himself on that. He says, "I think Mr. Alioto's right." I said, "That's in 18th century iambic quatrameter. That can't be Shakespeare." Of course, it was right. It was Sir Walter Scott who wrote those lines, not Shakespeare.
Hicke: That's a wonderful argument for studying the humanities, even when you're going into law or engineering or whatever.

Alioto: The judge was right. The case called for fireside equity. He had lived an exemplary life in the United States.

Hicke: Fireside equity is in the light of--

Alioto: Fireside equity is the unwritten law, the law of the heart.

Hicke: I've never heard that expression.

Alioto: "You shouldn't have done it but pay a $2,000 fine and go home instead of going to jail." He was a very nice man. They felt that he had helped a lot. He was a very charitable man, big-hearted Italian type. He built his market and gave a lot of employment to people.

Hicke: How did this case affect the Italian community there?

Alioto: There was a good deal of interest in it, because there must be 1,001 people in the Italian community that got in here on the same--not on the same basis, but the same problem we're having right now with the Hispanics. The struggle to get into paradise from conditions of poverty makes people do certain things that maybe they shouldn't do, if we look at it objectively, but the judge did the right thing in that case.

I remember the best thing I enjoyed about that case was breaking up that jury argument when this fellow started talking about Shakespeare's "Oh what a tangled web we weave when first we practice to deceive." Essentially, Sir Walter Scott from a poem called "Marmion." In any event, that's the Rossi case. It was an interesting case. There were others. Then there was the Jacuzzi case.¹ I may have told you about that.

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Jacuzzi Case and Other Antitrust Litigation

Hicke: That's another one I want to hear about.

Alioto: Jacuzzi was indicted, I guess for--

Hicke: This is the company, Jacuzzi?

Alioto: He was the son of the famous Jacuzzi. At the time he was running the Jacuzzi factory in Monterrey, Mexico, where they were doing the same thing: making agricultural pumps and the whirlpools. He was indicted for draft dodging in the Korean case. You can see the newspaper reports at that time were just incredible. This was the case that we had before Judge Murphy, the same judge who had tried the Rossi case.

After the indictment he went to Mexico and ran his father's plant in Monterrey, Mexico, and wasn't going to come back. I was representing the father at the time, Candido Jacuzzi, and the Jacuzzi company in a series of cases. I told him, "Look, he's not going to live in Mexico all his life with this thing over his head. Tell him to come back and face the music. The war is over now but they're still taking people in the army. Tell him to come back and face the music and I think we can convince Judge Murphy to send him into the army right now instead of a one-year sentence. But he's got to get over this."

I went down to Monterrey, Mexico, and convinced the kid that he should do this. I also got to see that very interesting courtship arrangement in Monterrey, Mexico, I've never seen anywhere else in the world. From about five o'clock to seven o'clock everybody does the promenade. All the young men go clockwise and all the young women go counter-clockwise so that they're looking at each other all the time. This is the way courtship is carried on in Monterrey, Mexico.

So I told him, "I'm going to arrange for your arrest at the border. You come in at Tijuana. I'll arrange for your arrest at the border and an immediate bail at the border so that you won't be in custody. Then you come and we'll go into court the day after that and you plead guilty. You did it. You ran away." This is all in the public print. Again, no confidences are being betrayed. "I think the judge can be prevailed upon to send you into the army. There were circumstances. You were on your way to Mexico at the time to take over this big plant. You wanted to prove yourself." He did. He was an outstanding business type. He ran this big operation in Monterrey, Mexico, where they produced agricultural pumps and the Jacuzzi whirlpool, the famous Jacuzzi whirlpool, which is a world-wide name now.

So, he came in at the border. Unfortunately, he came in with a camera slung over his shoulder and his wife was wearing a fur coat, a very expensive fur coat, and this was a draft dodger. I could have killed him when I saw that. Then I said, "We're going to go to court tomorrow and I want you to dress very plainly. Put on a nice blue suit, a white shirt, and a
The next morning he walks into court. I turn around, he's walking down the aisle and he did have the plain blue suit, the white shirt, and the tie, and he was wearing alligator shoes. I could have killed him. Alligator shoes in that day were a big deal. It's not so much a big deal now. It was a big deal in those days.

In any event, we pleaded then. We argued with the judge. Why waste time in jail? Why don't you send him into the army? The judge agreed and sent him into the army for two years.

The next morning I got a call from the United States Attorney who was Lloyd Burke, Judge Burke, federal judge, he was U.S. Attorney. "Bring Jacuzzi back to court this morning." I said, "What for? He's been released to go into the army, he's signing up with the army." He said, "Bring him back to court. Judge Murphy wants him back in court."

We went back into court and Judge Murphy said, "I've changed my mind overnight. I'm sentencing you to jail in Long Beach for six months." What had happened was that this thing was all over the newspapers, midday, and on the radio and everything else. Murphy went up to the Bohemian Club where he was wont to go and took one hell of a lacing, apparently, from everybody in that bar, about letting this draft dodger go. There was that much sentiment about the thing.

He got him back in court and sent him down to Long Beach. As it turned out, he served about six months in Long Beach of a nine-month term or something, served six months as an assistant to the--like a sacrosanct to the priest down in Long Beach, which was another difficult confinement place. He was out in six months. Had he been in the army, he might have had a rough time for two years. That was a notorious case of draft dodging.

Today, it's good, respected citizens who can move freely between the United States, Mexico, or any other case. That was the Jacuzzi case.

Hicke: That brings up a question. How do you decide when to take a more active role in a case like this?

Alioto: You mean making a suggestion to come back?

Hicke: Yes.
Alioto: I had a close relationship with the father. I developed a close relationship with the father. This was killing him, that his son couldn't come back for Christmas reunions, his son couldn't come back for family reunions. I said, "Look, Andy, he's not going to spend the rest of his life as a fugitive from the United States. If you want to be a fugitive from any other place in the world, fine, but the fugitive from the United States can never come to the United States. That's ridiculous."

I told him to come back and face the music. "We'll see what we can do about ameliorating the thing." And a six-month sentence for the emotion that was built around that case was a relatively light sentence, although it looked good in the paper that Jacuzzi had been sent to jail. It's a very prominent name, as you know.

Hicke: I wonder how much influence the Bohemian Club has on politics and other things.

Alioto: It would be an interesting thing. But that judge took one lacing, up and down, everybody in the place was yelling at him, screaming at him for letting Jacuzzi go. It never happened to me before where a judge made a sentence and then called it back the next day and said I've changed my mind. I don't think it's happened any time that I've even heard about it, let alone happened to me. I've never even heard of that.

Hicke: What are the legal aspects of that?

Alioto: There might have been legal aspects of it. But I'll tell you what: when he simply said in effect, gave him nine months, and we knew that that meant six months or less, four and a half months, whatever it was, he was actually better off. He might have been hurt in the army. There might have been a physical problem in the army.

Of course it was a very notorious case. I don't try criminal cases, except business criminal cases. I still continue to try those, like the Oldenburg case that we tried here.

But that has an interesting aspect and it came out of the fact that I represented the Jacuzzis in their business litigation.

Hicke: Okay. Do you want to stop for now or do you want to go on a little bit more?

Alioto: Let's stop for now.
Electrical Price-Fixing Cases

[Interview 4: March 13, 1991] ##

Hicke: I don't think you've talked about the electrical price-fixing cases.

Alioto: Oh yes. Those are very important cases. In the last years of the Eisenhower administration, the Department of Justice returned a series of cases charging the electrical equipment manufacturers, headed by General Electric, Westinghouse, Allis Chalmers, and all of the big ones, on a whole series of different types of electrical equipment, with price fixing to the public agencies and to the public utilities. These were the two principal victims of this charge. I found it interesting because I had brought a case against General Electric back in 1954 and listened to leading attorneys over at Pillsbury, Madison & Sutro accusing me of bringing strike suits. Dare I suggest that the electric companies were engaged in, not just price fixing but collusive price fixing? There can be open price fixing in written contracts and things like that, but this was surreptitious stuff where they were falsifying expense accounts to show that they went 500 miles east when they really went 500 miles west or north or south. Had them [meeting] out in the Atlantic Ocean somewhere.

Hicke: To make some agreement?

Alioto: And then they would meet at motel rooms and decide who was going to get the bids on both the public utilities and public power organizations in the State of Washington and the rest of them. Anyway, those lawsuits then spawned a whole group of private suits—about 3,000 of them throughout the country—where every public utility, for example, PG&E and Edison and Consolidated Edison, were all compelled to sue as plaintiffs.

Now, these were unusual plaintiffs. And their lawyers were very unusual. Plaintiffs' lawyers. But this was a real watershed insofar as the enforcement of the antitrust laws was concerned, because for the first time all of the big firms in the country were involved as plaintiffs' lawyers; so many of them were involved as plaintiffs' lawyers instead of defense lawyers, representing the public utilities.

Hicke: What year or years is this?

Alioto: This all happened from 1960 to 1966. Just before I got into the mayor's office. And they turned out to be, of course, very lucrative cases, but there's a little background even on that. I
represented Sacramento Municipal Utility District, the City of Palo Alto, and, most importantly, the big public power utilities in the State of Washington as well as the State of Washington itself.

The judges were in great—not confusion but there was a great deal of consternation, I guess I would say—how they were going to get rid of 3,000 cases, all brought charging these very high and important public executives with—these were the people who passed the box in church on Sunday and were heads of the local American Red Cross and local Boy Scout groups and chambers of commerce and everything else. And a couple of them went to jail in connection with this. It was the most egregious price-fixing scheme maybe in the history of the United States.

Hicke: Is that the so-called direct service industries of the Northwest?

Alioto: No, there are three or four books written on it and one of them was called The Great Price Conspiracy. So you can pick those books up on the—I used to have them around somewhere but Lord knows where they are. In any event, what happened is that all of the judges got together and we had meetings sometimes where there would be fifty or sixty federal judges sitting in on these meetings and they finally got down to the part where GE and Westinghouse and the rest of them agreed to settle all of the cases for 3 percent of the purchase price. In other words, if you paid a million dollars, $2 million, $500 million, whatever, for the things there, you got 3 percent of your purchase price and that was the damages.

I and one other firm in the country decided we weren't going to do that, that this was an outrage. That wasn't even interest, 3 percent wasn't even interest on that money that had been taken away from them by this vicious cost. And to show the measure of the damages—even though we weren't in an inflationary period, after the conspiracies were discovered and broken, the prices of electrical equipment, the hydro-generators, the turbines, the power transformers—all of those prices took a kind of waterfall drop in an inflationary period, which shows how much the damage was and also proves the conspiracy itself.

I took the view that we weren't going to settle for 3 percent. And some of those judges got angry with me and said, "All right, Mr. Alioto." I'll always remember this. "You don't want to settle; you have six cases. You'll try each one with a two-week intermission starting next week." These were cases in Sacramento, Hawaii, Seattle. "Okay, Jack, we'll do it."
I had never worked so hard in my life except maybe in recent years. "We'll do it, Judge." We started in Sacramento, Seattle, Hawaii. After we got halfway into the Seattle case, GE came in and threw in the sponge, and we got our 25 percent. So all of my clients got 25 percent. And they were big judgments in those days--approximately $79 million went to my particular clients paid by GE, Westinghouse and the rest of them.

And that conspiracy--the private plaintiffs unearthed a lot more than the government. Among the other things we unearthed was this situation which is still spoken of as the "phase of the moon."

During the course of the grand jury testimony or the congressional testimony--I'm not sure which--they finally got a very honest Mormon; he described himself as such. Maybe some people would say all Mormons were honest but this is up before the grand jury. They dragged from him reluctantly the fact that the conspiracy took this form on the big equipment. They cut the country up into quadrants, and then they took each phase of the moon, the first quarter of the moon, the half moon, three-quarter moon, full moon, and in one quadrant, in the first quarter of the moon, if the bids came up, GE would get all of those bids. Westinghouse would get them on the second quadrant. Allis Chalmers in the third. It was incredible what these people did. These are our leading citizens.

Hicke: Would you consider that pure arrogance?

Alioto: This all came out, and we also developed the phony expense accounts. In other words, if they were going to meet in--say they were going to Pittsfield, Massachusetts, where one of the GE plants was. If they were going to meet in New York City, they would pick a town of the same distance so their expense accounts would be accurate but it would be west. They put it down for New York City but it would be west. Then they'd meet in a motel room and decide what prices they were going to charge on various pieces of equipment. The phase of the moon applied only to one type of electrical equipment.

They also had color codes. People wouldn't believe this kind of stuff if you put it on a stage. They wouldn't believe it'd happen. We established all of those things, and we took two different views. First of all, we wouldn't settle at the 3 percent figure. We got 25 percent for our people. The other view we took was, the government did not indict Ralph Cordener or send him to jail as they sent other GE executives and other Westinghouse executives to jail for a short period of time. I told my people it wasn't possible that all of this stuff was going
on and the chief price fixer at GE was in the office right next to Ralph Cordener and that Ralph Cordener didn't know about it. I just didn't believe it. I insisted very early on taking Ralph Cordener's deposition. All of the lawyers, and they were mainly defense lawyers, said no, we'll wait until we get the documents and--. I said baloney, I'm going to do it, you guys do what you want.

Hicke: Who was he?

Alioto: Ralph Cordener was the chairman of the board of GE at the time. So I took his deposition. Later on, when he tried to reconcile everything that happened with the facts, he was contradicting the original deposition that I took. And finally, too, there was another point of divergence that I took from the other plaintiffs' lawyers. They had hired Webster & Stone and paid $500,000, which in 1960 was a lot of money, for a study to make comparable the various items of equipment, the various generators; for example, for GE's generators and Westinghouse generators or generators made for one location as against generators made from another location where there would be variations and it was necessary to get them down to kind of common denominator.

I kept insisting that because of the vastness of this litigation, a depository be set up in Chicago. So all the production was made into this depository. It was a library. We didn't take them into our individual offices. Anybody who wanted a copy of anything copied it out of this huge depository in Chicago.

I took the view that we weren't going to spend any $500,000 on Webster & Stone or Bechtel and Company or these engineers to give us these elaborate studies. I knew that somewhere in the offices of the chief executive there would be documents and admissions that would be admissions whereas the study by Webster & Stone is not an admission. You'd have to get it on the basis of the instructions to follow on that type of thing.

Sure enough, we found it right in the little black book right in the desk of one of the big officials of GE. That's pretty much what broke the case and gave us 25 percent as against 3 percent that everybody else settled on. But of course, it proved to me what I've always believed about the antitrust laws. And this is something that Adam Smith had said in his classic work on economics: namely that if competitors have enough opportunity to meet, if they gather together often enough, it's almost impossible not to have a price fixing conspiracy come out of frequent gatherings.
I had always used the analogy: you put a known alcoholic in a room with a bottle of whiskey and then he comes out drunk, I think that's all the evidence you need to prove that he consumed the whiskey. You have not seen him drink that whiskey. But we showed the frequency of meetings between and among these competitors and they'd say, "Yes, we'd gather for trade association purposes" or for legislative purposes, and the truth of the matter is that that was true but they were all together. Then they would be at cocktail parties afterwards or in private rooms afterwards.

This huge, national conspiracy was carried on, and there was a good deal of material written about it at the time. The one big thing it did insofar as the antitrust laws were concerned that we were getting very important decisions on, because the judges were really incensed at the kind of stuff that was going on, so we were getting very important decisions on the tolling of the statute of limitations by fraudulent concealment and a number of other issues as well.

Hicke: In other cases?

Alioto: Yes. And I used to kid Milton Handler on this. Handler had become a great defense lawyer who was used mainly by the defense. I had argued a kind of unique case in the Tenth Circuit against him, the Village Theater case--Village Theater v. Paramount Pictures, et al. Handler writes an annual review which was put in the hands of the judges, and this is a very influential thing, because he is one of the great and outstanding antitrust authorities in the country. He had taught at Columbia [University], but then he became basically a defense lawyer.

But during this period of time he represented some of the private, investor-owned utilities as a plaintiff. And so his annual review, then, took a decidedly plaintiff's tint as against the defendant's tint it had taken all along. Our friend Milton used to rail against what he called the tyranny of the absolute; he saw everything in life as relative. With patient investigation, you can finally come to some conclusions about where the truth might lie.

But nevertheless, that was one of the beneficial things that came out of the thing. And it was also during this period of time that we got our favorable decision in the Continental Ore case, which I've already described to you, out of the Supreme Court. And that of course was extremely helpful in terms of the jury cases coming out.
Hicke: I have to ask you one question going back to the beginning. How do you make a decision like you made to go ahead and pursue this case instead of settling?

Alioto: Instead of taking the 3 percent settlements? You look at the case, you figure out what you can get by trying it. And put on the scale of all of the difficulties of shepherding a case to a successful verdict, a successful judgment, and a successful appeal, or resisting a successful appeal. You put that in balance on one side, and then you see what they're offering you for settlement. It's just like any other case. Figure what are the chances of what I would be getting there despite the risks, and what is this bird in hand. There are times when a bird in hand like 3 percent is not worth that 25 percent in the bush that we did actually finally wind up getting. Just a matter of exercising the judgment on how strong you think your case is, and the pitfalls that might befall it.

Normally the big pitfall is the judge. There are too many judges who are simply disposed to be anti-antitrust. That's not critically necessary. They philosophically believe that the corporations shouldn't be bothered with litigation. And some of them don't like the treble damage aspect of antitrust. And that's a reasonable position. I think reasonable people can reasonably disagree about that, even though I strongly feel that that deterrent is necessary. So you put all of those factors into your judgment chamber, and then you make the judgment, and then you have to have the courage to make that judgment and make it unequivocally and take the consequences. The consequences were they were so anxious to force settlement of all of the 3,000 cases—and they had all but about fifty of them resolved—that they gave me that horrible schedule.

You have a series of trials and I had some non-antitrust trials at that time—the one in Hawaii. They said whatever your trials are, Mr. Alioto, two weeks between each one and you try every one of them. They said that kind of vindictively. I said, "Judge, no, I have deference to the court and all of that, but I can't permit myself to be frightened by a specter that involves my taking on a herculean task," and it was herculean. So we took them on and we beat them.

Hicke: But it's interesting that hardly anybody else made that decision. They must have all been--

Alioto: Yes, a lot of the people took the 3 percent. But they weren't that upset about it, because they were all the private utilities. They were all monopoly-minded anyway. The nature of their business. They get into a monopoly mode and they get molded by
the monopoly mold. So they weren't that upset. Those were the electrical cases and the lawyers that held out were basically my office, Harold Cohn's office in Philadelphia, and Charlie Bridell's office in Seattle.

Hicke: Then, let's see--Walter Wanger?

Alioto: Walter Wanger was the producer of, among other things, Cleopatra, one of the great bombs of all time. Remember this was the great Elizabeth Taylor-[Richard] Burton film and was filmed in Italy, and under blue Italian skies they fell in love. You remember, and she left Eddie Fisher for Burton. The picture itself bombed out. But he was also the producer of a number of other pictures. And I've already told you about the Disney action in Detroit. He was part of that action. It was Goldwyn, Disney, Wanger, Nebinsol, Eddie Small--these are the five big producers at that time. They were big names. They're hardly known today, except, of course, for Goldwyn and Disney. Wanger is still pretty well known. And that was that case.

Hicke: Children's books?

Alioto: That was a class action case. It was handled by a lot of lawyers in the country, and that was just a price fixing case. There's nothing particularly notable about it. It followed after the electrical cases when there was kind of a drive. After the Eisenhower administration, then the Kennedy administration picked up on the series of indictments involving children's books and bleacher stands sold to the schools, for example; another class action type case.

**Class Actions**

Alioto: But during this period of time and after our case, which incidentally I am using tomorrow in my argument at Stanford, that's the Continental Ore case and Union Carbide against Nisley. Nisley is the more important one. Union Carbide against Nisley, which is 300 Federal 2nd at 561. That case held for the first time that a group of independent mining companies--there were 300 of them--that had an association and were cohesive in terms of their pursuit of remedies could join together on the class action. There were seven of them that sued for 300 of them. That was before the revision in the class action statute, which has generated all other class action cases that you have been reading about. This was pre-revision of that statute.
We actively used a common-law form, and it was a case of first impression as to whether or not seven could sue for 300 when the 300 weren't bound by that judgment. See, that was the thing that was bothering the judges: that they weren't part of the suit. And defendant was bound by the judgment but they wouldn't be bound. It was mutuality of remedy.

They were bothered by it, but we succeeded in Union Carbide against Nisley in establishing the fact that such a class action could be brought. That's the case that directly brought about the revision of the rule on class actions, which the corporations--and I think stupidly--thought was going to be helpful to them in terms of putting a limit so that you know that you've covered everybody. Instead of that, it just generated the whole new class of lawyers called class action lawyers.

They have been accused in other quarters of being basically ambulance chasers, namely, when the government brings a price-fixing case against the paper manufacturers, for example, as they did--they would go out and get some stationery store, might be his brother-in-law or his cousin, and have him sue as a member of the class for everybody who was in the paper business. That's a little hyperbolic, but nevertheless it was really typical.

**Hicke:** What was the basis that you had convinced the judge on?

**Alioto:** It would be interesting to read that case. We just said that, otherwise, you would have two things: 300 miners, independent miners, bringing separate suits and you'd have all of the suits that would clog the court. Now this was before 1962; it was prior to the electrical conspiracy indictment. This is in a court of appeals in 1962. First of all, you'd avoid this multiplicity of suits, and secondly a number of independent mining companies just didn't have the resources to take on these big defendants by themselves because of the war of attrition generally carried on by these defendants against impecunious plaintiffs. When they get an impecunious plaintiff.

That's why maybe so many of our cases have been characterized by what is called the millionaires against the billionaires.

[tape interruption]

**Alioto:** Before the telephone interruption and speaking on the subject matter of impecunious plaintiffs, our cases have sometimes been characterized as the millionaires against the billionaires, in the sense that Sam Goldwyn was independently wealthy--maybe more independently wealthy than anybody in the whole Fox West Coast
organization—when you put together the Fox West Coast company, 
20th Century Fox and United Artists theater circuit. That's an 
aggregation of wealth that's tremendous. So that's a millionaire 
against a billionaire.

Radovich v. National Football League

Alioto: On the other hand, over the years, we have taken what might be 
called pro bono cases but we saw some solution for the fellow. 
The famous case, for example, Radovich v. National Football 
League, which held that professional football, unlike 
professional baseball, was subject to the antitrust laws. The 
case in the Supreme Court. We took it on a lark, and I think I've 
already told you the background of that case.

Hicke: It's not on tape. That was another one we talked about earlier.

Alioto: You'll find this one interesting. I was sitting in a restaurant 
down in Los Angeles, the Khayam Bar. It was called that in those 
days, early 1950s. The two best steak houses in Los Angeles were 
that and the old Pacific Railroad Car. And they since, of course, 
acquired a lot of very, very fine restaurants in southern 
California, but these were two very fine steak houses.

As I was sitting there with Elwood Kendrick, an associate of 
mine, a very beefy young guy walked up and he had a very beefy 
companion next to him. Kendrick said to me that they're shoving 
this guy around, and I said, "Who is shoving him around?" 
Kendrick explained to me that they had just come off the lot. 
They were doing horror pictures with Warner Brothers. One was 
Radovich, an old pro guard for the Detroit Lions and later on for 
the Los Angeles Dons, and the other was Buddy Baer, the brother of 
the heavyweight champion Max Baer. Buddy Baer was a wrestler. 
These two huge men were standing there and Kendrick told me they 
were pushing Radovich around, and he told me the story how 
Radovich, an All-American guard out of USC and an all-pro guard 
with the Detroit Lions, had wanted to come to Los Angeles when 
they formed the first American Football League.

And Slip Madigan, former great coach at St. Mary's College, 
which I attended, as you know, was coach of the Los Angeles Dons, 
and offered Radovich a contract. Radovich wanted to accept it, 
because his father lived in southern California and was very ill

1352 U.S. 445 [1957].
at the time. When he did that, he in effect jumped the NFL to this new league. He was put on a blacklist by Burt Bell, the then commissioner of the NFL, Mr. (Pete) Rozelle's predecessor, and George Halas. George Halas was head of that committee, George Halas of the Chicago Bears.

So then he tried to get a job in San Francisco after he's kind of over the hill. He got a player-coach job for $5,000 with the San Francisco Clippers, I believe they were called. It's a predecessor organization to the 49ers. And after he is orally told to report, he reported one day and they finally said, "Look, we can't take you in; you're on a Halas blacklist." So they rejected him. And I said--this is in the bar--"They can't do that to him. I don't care about that old federal baseball players' case in 1922 where Justice Holmes incredibly held that baseball was not subject to the antitrust laws because of some question about interstate commerce. That's not going to hold up today.

"So let's try it. We're going to get kicked around in one court, but let's see if we can't break through and have these courts recognize that football is a big business with interstate television and radio that ought to be controlled by the antitrust laws."

So I wrote a complaint on the back of a menu, the Khayam menu, wrote out a complaint for my friend and handed it to him. He finished the complaint and we brought the case in San Francisco on a pro bono basis, basically, because there obviously weren't a lot of damages involved--$5,000 was the amount of his contract.

Before we started, Pillsbury, Madison & Sutro showed up defending the National Football League, and we said, "Look, why don't you give the fellow $25,000 and we'll all go home?" I heard that famous thing that I've heard all my life from defense lawyers--not one cent for tribute, millions for defense. I say that's a great aphorism for a defense lawyer.

They wouldn't give him the $25,000.

Hicke: Who from PM&S? Who was representing?

Alioto: I'm trying to think whether it was John Bates or Gene Bennett that gave me that silly conversation. Anyway, Pillsbury got a little too expensive for the National Football League, and they hired Marshall Leaby for the later stages and for the argument in the Supreme Court. Anyway, we got kicked out in the District Court on the ground that football was like baseball--you couldn't distinguish it. And we got kicked out in the Court of Appeals,
9th Circuit, on the ground that football was like baseball—
couldn't distinguish it, in spite of our arguments.

Then in the Supreme Court, we won that decision six to
two. They wrote the famous decision that baseball was sui
generis; it's an exception that had been carved out by the court
in 1922, and that decision would be respected not only on the
basis of stare decisis but also that football was indeed subject
to the antitrust laws because it had commercial aspects as a
business that could be ignored until the Radovich case came down
in 1957.

Hicke: Who wrote the opinion, do you recall? We can find it.

Alioto: I should know that. I'll get it for you before we leave. I know
exactly who wrote the opinion. Tom Clark. Therein lies another
tale. Tom Clark had been my boss when I first started with the
antitrust division. And so during the course of the opinion, he
said he sustained our position, and that's still cited very often
for the fact that even the destruction of a little man has
antitrust consequences. But in the course of the opinion, he
said, "This complaint is no model of pleading." Later on I met
Tom in the lobby of the Drake Hotel in New York City and I told
him the story of how that complaint was--

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Alioto: --and I told him the story of how that complaint was penciled in
on the back of a menu. And then added, "Tom, did you have to make
that crack? How about Auld Lang Syne?" Nevertheless, he did.
And that case, as you know, has spawned a multiplicity of lawsuits
and litigation all over the country, and for $25,000 they could
have had that case instead of giving me that ridiculous rhetoric
about millions for defense.

Hicke: Aren't you glad they didn't?

Alioto: I'm very happy they didn't. And later on when I was out to
represent the Oakland Raiders and the San Francisco 49ers in the
Capp case, I started out by telling Mr. Rozelle, "You do
understand, Mr. Rozelle, that I'm the guy that brought the
Radovich case." I told Mr. Rozelle that, and he says, "Yes, I
know that." Of course the decision was correct, even though Tom
Clark made that little derisive remark.

Hicke: He couldn't give you the whole thing, he had to take a little bit?

Alioto: I said, "As a matter of fact, Tom, I thought it was a great
pleading for having been written in ten minutes on the back of a
But that established the law and it established very important law and it has been cited in many connections—not just for football but for the fact that the injury to a single person could carry antitrust consequences where the prohibition, in effect, was directed against a rival league. Finally the AFL did take root. It was another AFL that took root in 1960 and in 1966 came the merger of the two leagues with congressional approval. But after the Radovich case in 1957, Burt Bell and later on Rozelle when he became commissioner in 1960 tried in 101 ways to get Congress to give them the same exemption as baseball had and then exempting various specific activities and failed to do so, mainly because of the presence on that committee of a fellow named Emanuel Cellar.

Hicke: Oh, I remember Cellar.

Alioto: [Inaudible] we had a little restaurant too and we talked about the wine case. When the Brooklyn Dodgers moved out of Brooklyn, which was Emanuel Cellar's district, he vowed that he wasn't ever going to do anything for any kind of professional sport, and he stood there as a real block in the way of any exemptions from the antitrust laws for professional football.

The only way they got the merger through in 1966, the merger between the AFL and NFL, was to go around Cellar. To have the Louisiana crowd, principally Hale Boggs, push the bill for them, and they made him a promise that when the merger was completed New Orleans would have a franchise in the NFL, his home territory.

There was a very interesting story finally told in the New York Times by Hale Boggs' administrative assistant, Congressman Boggs's administrative assistant. You remember, Congressman Boggs is the one who took off from San Francisco on a plane on his way to Alaska and was never heard from, and they have never found that plane. As you know, they figured it was buried in the snow up there somewhere in Alaska.

But, his administrative assistant told a story of how when Boggs was ready to get the bill introduced and passed, they had to vote. He turned to Rozelle and says, "If New Orleans gets a franchise." Rozelle says, "I'll take that up with the owners." And, Boggs being a real Louisiana politician, knowing the ropes, just sat back and said, "Fine. You take it up with the owners and I will hold this bill until you get their approval." Rozelle then says, "You have the franchise." And the bill went through. That's the story of how laws are sometimes made.

Hicke: Politics make--
Alioto: If you came to Rozelle with that story in the Raiders case he'd pretty much confront it. But the story was told in the *New York Times* by Boggs's administrative assistant.

Hicke: He was going to put that bill back in his pocket.

Alioto: He was quite ready to do it, and Rozelle then immediately said, "You have to sign it." Ten days later, New Orleans was given the franchise. That's how the New Orleans Saints came to be and why the Jacksonville people or the Memphis people or the Phoenix people at the time didn't get their teams when they wanted it.

Hicke: Interesting. The next one on my list is chemicals.

Alioto: We had a lot of cases involving chemicals. The very first case I brought in the antitrust laws was a case called Wyodak (a shorthand form of saying Wyoming/Dakota)--Wyodak Chemical Company v. National Lead Company. The Wyodak Chemical Company was a producer and seller/distributor of bentonite, which was a chemical used and substance used in oil well drilling. The National Lead Company had a process patent and also produced bentonite, and they simply told the oil well drillers that, "You can't use our process patent unless you buy the unpatented bentonite from us." That excluded our people.

Hicke: Didn't you tell me about this one?

Alioto: I think I may have mentioned that one, because it was the very first antitrust case I had. It started my career in the plaintiff antitrust business. We took one deposition from a man named Martini, who was the president of the National Lead Company, and after that deposition, they came and settled the case out and gave Wyodak $250,000, which in 1949 was a lot of money for that type of thing. I got a fee in that case of $60,000, which in 1949 to me loomed like some snow-white Alp.

Hicke: A milestone.

Alioto: It was a lot of money in those days. At the Department of Justice, I started at $200 a month and wound up at $400 a month when I left. So, you can see the difference in salaries at the time. Although, Thurman Arnold always told us, "You're not going to make any money here but you're going to learn a lot and you're going to enjoy what you're doing." Of course, he turned out to be quite right about it.
Rice Growers Association

Hicke: Okay, well, one of the major things I want to ask you about is the Rice Growers Association. I know you handled cases and you were on the board, so can you tell me that from beginning to end?

Alioto: Sure. In 1941, my first year with the Department of Justice, we brought a case called United States v. The Rice Growers Association, et. al, in which the rice industry was indicted for price fixing on rice.

Hicke: How did you get involved in this?

Alioto: I was just working with the Department of Justice and they were on the other side.

Hicke: Oh, okay.

Alioto: They were on the other side. There was no doubt about the price fixing. They did it by meetings and by agreements. The five principal factors in the rice industry got together, fixed a price at which they would sell the rice, and apportioned shares among themselves. They had quotas among themselves and they would adjust those quotas quarterly so that each one had in terms of money what he would have had.

They had a lawyer at that time who advised them in 1938 that because they sold the rice FOB Sacramento, even though it went to the cereal manufacturers and even though it went to Puerto Rico, the principal market, and Hawaii was another principal market, that was intra-state commerce, not interstate commerce.

Hicke: Who was the lawyer?

Alioto: In 1938, the lawyer who's dead now and has been dead for many years, was Harry Creech. Harry was a great lawyer, incidentally. He kept that industry together, but his advice on this was I think more wishful thinking. They had a great thing going, as a result of that advice that because they sold FOB Sacramento, they shipped to Hawaii, for example. Californians grow a different kind of rice than the four Southern states, which are the other producers of rice in America. Californians grow a Japanese style of rice, which is a short-grain, glutinous rice, as distinguished from the others.

We brought that indictment. There was no defense of the thing so we worked out a settlement.
Hicke: Wait a minute. What was the importance of California having a different kind of rice? You started to tell me this.

Alioto: Because the Japanese in Hawaii preferred it. People have strong preferences.

Hicke: That's right.

Alioto: For example, the people in San Francisco will buy Southern rice, Chinese-type rice, rather than buy rice grown in California. Only the Japanese along the Pacific Coast bought the California type rice in those days. There's a distinct difference. California rice is better tasting but glutinous; it sticks together. The Southern rice fluffs. The Americans have gone for cosmetics. The Orientals have gone for rice.

But basically, long-grain is known as a Burma or Chinese-type, and the short-grain is California Japonica, and as a result of the war it was called Pearl Rice, instead of Japonica rice, as it was once called. It's the same thing as changing frankfurters to hot dogs because of World War I and the German implication.

So in any event, we worked out a consent decree, and that's the last I heard from the rice industry until 1948. I got a call from the president of the Rice Growers Association. He says, "There's a grand jury investigation charging that we had placed ineligible rice under price support with the United States government." In other words that we bought rice from a commercial miller.

RGA was the co-op, producers co-op, so I defended them in that case. There was an indictment brought in that case. This was in connection with 60,000 tons of rice that was supposed to be shipped to Chiang Kai-shek just before he was kicked off the Chinese mainland by the Communists in 1949. He got kicked off the mainland, and the rice stayed up there in Stockton.

So it created a fuss. And they claimed that a lot of that rice was purchased from commercial mills and placed under support. Once rice gets in commercial hands, it's not eligible for farmer support. And it was true. That was done. But our people kept saying that the government told them to do it this way because they had to get that rice in a hurry, and they figured that the support program was the fastest way they could get this rice to Chiang Kai-shek, whom we were supporting at the time.

But the government brought the indictment anyway [inaudible] against the rice growers. We had to prove that the government had, in fact, told them to do this. This was a fraud, not only
antitrust. They brought it as antitrust on the theory that they were taking 60,000 tons of rice off the market for the purpose of enhancing the price of new product. That was the antitrust theory.

But they also brought a fraud charge, defrauding the government, criminal, felony, real criminal. They brought a criminal antitrust. At that time the antitrust was a misdemeanor; now it's a felony, as you know. Misdemeanor, carrying a $5,000 fine. Now it carries a million-dollar fine and it's a felony.

But defrauding the government would have sent all of these people to jail for a long time. And we had difficulty proving that the State Department and the Department of Agriculture had actually told them to do it this way. Now on our way-slips and things like that, we showed the origin of the rice to be from the commercial mills. So we weren't hiding that much. But they said, "Who the hell reads way-slips?"

During the course of the examination of a member of the State Department, Department of Agriculture, maybe, whose name was Entermill--. He was standing up there; these crazy things that happen in litigation--standing up there with a folder of State Department memos, and a cablegram falls out from the folder. I picked it up. It wasn't being produced or anything; he was using other documents in the folder. And the cablegram very clearly said, "Get the rice from Rosenberg Brothers and send it off to Chiang Kai-shek as quickly as you can."

The judge then threw the case out of court, the criminal defrauding case out of court. That was Judge Oliver Carter; he granted our motion to dismiss. And that was the end of that rice business.

Hicke: Wait a minute. Let me just interrupt here. You proved that the government told them to do it. Is that a legal defense? It must be, but--

Alioto: It wouldn't have been a legal defense of the antitrust laws of the Sacony-Vacuum case, which came down in 1940. But in this case, the fact that the government told them to do it took away the necessary criminal intent that you needed in the criminal case.

Hicke: Okay. Thank you. That explains that.

Alioto: And there was a political purpose behind it, namely to get the rice to Chiang Kai-shek, but unfortunately Chiang Kai-shek got kicked off the mainland and ran to Taiwan before the rice people were able to ship it. As a result of that case I became the
Washington representative of the Rice Growers Association and the California rice industry.

I put together a shipping transaction for them which involved a shipment of white rice. It's the first time in the history of the world that white rice had been shipped in bulk rather than in sacks, shipped in bulk to Puerto Rico, which was a big market for the Rice Growers Association. They sold about a million and a half hundredweight of rice to Puerto Rico each year.

Hicke: How did you work out this shipping it in bulk?

Alioto: Well, they had started trying to put it together and weren't able to do it. And then I went to my friend who was the main plaintiff in the Continental Ore case and asked him for some help in financing.

Hicke: Who was that?

Alioto: Henry Leir. You'll find his name in the Continental Ore case, which I think you really ought to read. It's an interesting case, as well as the Union Carbide against Nestlé case.

And Mr. Leir arranged to get us Eurodollars, which were the only dollars you could get at the time to finance certain business projects. We took an old Liberty ship and then literally built into the bottom of that ship a rice elevator, so that the rice was brought up by augers and conveyors. We built a plant down in Puerto Rico to take it in bulk, and then it was sacked, semi-processed with some vitamin enrichment, that's all, and then put in packages in Puerto Rico under the Sello-Rojo label, meaning red seal label, which in Puerto Rico for rice was a little bit like Kraft for cheese in America at the time.

And after putting that transaction together for them I was made president of the Rice Growers Association, the chief executive officer. We got an office directly below my law office at 111 Sutter Street, and I carried on that function, spending approximately a quarter of my time on it but continued my litigation. I simply treated the Rice Growers as another client and had certain executive personnel in San Francisco, but the basic day-to-day personnel was up in Sacramento running the show.

What I did, I made basic decisions on pricing, basic decisions on shipping. We finally traded in that Liberty ship and did the same thing with a T2 tanker, which gave us 15,000 tons, which was half again as much and half again as fast. And that was a very, very successful operation all the way up until the time I left.
Hicke: The sales expanded from 25 to 70 million, the sales during the time you were there.

Alioto: Oh, when I was chief executive officer, we increased those sales very, very dramatically, and the Rice Growers Association became the biggest rice-milling operation in the world. It was a true co-op. The co-op owned that rice from the time the seeds hit the ground and the paddies were flooded. That was owned by the co-op. And the co-op had its own trade labels. The co-op had its own shipping to this major market, which was Puerto Rico, and it became the largest rice-milling organization in the entire world at that time. They were handling, I think when I left, something like 25 million hundredweight of rice. That's a lot of rice. What is that--250,000,000, two and a half billion pounds of rice.

And then when I went to the mayor's office, I left the Rice Growers Association, of course.

Hicke: You were involved with Harold Faulkner in that somewhere?

Alioto: I told you earlier about those criminal cases.

Hicke: This doesn't have anything to do with them, right?

Alioto: The criminal cases against the rice industry brought in 1949 involving that 60,000 tons of rice that was scheduled to go. I represented the Rice Growers Association in that case. Harold Faulkner represented Rosenberg Brothers, and the Grojean Company was also represented by the Bronson firm. And Jerome White [of Heller, Ehrman, White & McAuliffe] also represented Rosenberg Company.

Hicke: Didn't they have raisins too, the Rosenbergs?

Alioto: Oh, yes, they had everything, dried fruit. The Guggenhimes had it too. They had at one point dried fruit, generally prunes and raisins. Jerome White was representing Rosenberg Brothers, and as an interesting assistant, who was his assistant lawyer on the thing, who didn't appear in court as an assistant to Mr. White, was a gentleman, Caspar Weinberger, who later became the secretary of Defense in the Reagan administration.

And Mr. Faulkner and I worked together on both the antitrust case and the criminal fraud case, the charge that they defrauded the government. Mr. Faulkner was a very interesting lawyer.

Hicke: Can you tell me about him?
Alioto: He was principally a criminal lawyer who came out of the Prohibition era cases. He used to represent a lot of bootleggers in the criminal cases and a lot of companies, sugar companies and others, in the criminal cases during Prohibition. He has to be ranked in my opinion among the great trial lawyers that have come out of San Francisco. He was a great trial lawyer.

He was not flashy or dramatic, but very, very thorough, and he had a kind of an old-shoe approach with jurors. He was a very short, bald-headed, pleasant man, kind of a grandfather type in many respects. But among all the warriors I've seen around here in terms of the great trial lawyers, those that I actually worked with or against, I think you would have to put Theodore Roche and Harold Faulkner, who were in some respects similar. They were both men who were under five feet or maybe just five feet, both of them. And they were great trial lawyers, very great trial lawyers.

That was at the time when they tried cases just once in the trial court and not five times in discovery, as we're trying them today.

Hicke: What about Jerome White and Cap Weinberger?

Alioto: Jerome White was not a trial lawyer of the caliber of Harold Faulkner or Teddy Roche or John Taafe. But he was a very pleasant man. Kind of gruff. Kind of a stout man with white hair. And he was a good lawyer. But I think it's fair to say that Faulkner and I carried that defense, and the others kind of "me-tooed" their way. Ed Bronson was representing Grojean, and I think that he had not tried a criminal case up to that point at all. As you know, Ed Bronson was a very good lawyer, very great lawyer and a very fine person.

Hicke: One more thing about rice. In 1967 you negotiated the sale of $48 million worth of rice to Korea. Is that connected?

Alioto: There's been a lot more than that since that time.

Hicke: Maybe that was the first.

Alioto: The Koreans had been an exporting country for a long period of time. There was just something interesting about that that I guess I ought to tell you about, because it did involve a legal principle and concept. We had approximately 60,000 tons of rice left in our elevators toward the end of the season.

The Koreans came on the market rather unexpectedly and wanted the 60,000 tons of rice, because it was the same kind of
rice that they grew. They grew a short-grain type of rice too. Rice, of course, is vital to them. It's their staple, and they used California rice not only to cover their shortages but also to keep the price stabilized so that in short periods the price of their basic staple wouldn't rise dramatically.

We had the only rice in the world at that time, and we worked through Grover Connell, who was a personal friend of mine and who is now, has been in recent years, the biggest rice exporter in the world. He's out of New Jersey.

The Continental Grain Company, which as you know is one of the giant combines, single family, actually owned by a single family, but one of the giants, was in grain; grain merchants throughout the world thought that we had to get rid of that rice. So they went over to Korea, and while we were negotiating the contract directly through Connell, they got the Koreans to give them the contract, by what means Lord knows, although the Koreans in recent years have been accused by their own people of accepting bribes in return for very lucrative rice contracts in recent years. I don't say that Continental did that, but they got the contract. We had the rice and they got the contract.

Then they came to us and said, "We got the contract and you've got the rice. You've got to sell it at our price, our contract price," which was lower than the price we were negotiating with the contract. They thought at that time they had us in a squeeze, because we had to get that 60,000 tons, which is a lot of rice, out of the elevators for new crop that was coming in. Prior to that time, because of the practices of the combines against the farmers in the past acting that way, we had built almost--you can't build a rice storage elevator, grain elevator, surreptitiously, but we did it without a lot of fanfare. We told them to go to hell. They had the contract and we had the rice and they could buy the rice at our price. I wasn't interested in their contract price.

It was a standoff there for a while. Finally, because they had committed to the Koreans and couldn't go back on their word, and because they had committed to the Department of Agriculture, they paid us $1.5 million more than their contract price and took a loss of $1.5 million, and we got more than the price we originally tried to negotiate.

We could have maybe gotten more, but I was in Rome on my summer vacation and the Department of Agriculture asked me to come to New York to meet the head of the Foreign Agricultural Services, Ray Iaonnies; he was a great government servant. He asked me to meet with him in New York with Continental Grain and with Mr.
Connell and we would hammer out this contract dispute that we were having, because I was prepared to carry the rice into new crop knowing they had to buy it from them.

This is the old story of a shirt seller. When the shirt seller has the farmers in the position where they're under pressure, that's one thing, but we decided to put ourselves—and this is one of the reasons why RGA became the largest rice growing organization in the world—I had to put ourselves in a position that wouldn't make us as vulnerable, and they finally paid us that big premium. We'd have had a bigger premium, except the Department of Agriculture, with whom we were doing a lot of work (rice is one of the supported commodities, as you know, under the agricultural programs) said, "That's enough; $1.5 million is enough. Don't go beyond that, and let's get this rice over to Korea."

That's the rice business. It's been a very interesting business, rice. I have continued, up to this day, to represent the Connell Rice Insurer Company of New Jersey, which is the largest exporter of rice in the world.

Hicke: Why did you get out of that business, you yourself?
Alioto: I became a mayor.

Hicke: That will do it!
Alioto: I became the mayor, and then I continued representing the rice growers.

Food for Peace Program in South America ##

Hicke: I think we finished with the rice growers pretty much. But there are a couple of other things left from the fifties that I wanted to ask about. One of them was: you conducted a survey of South American farm production, marketing, and started the Food for Peace Program.

Alioto: In 1959 I was representing the Rice Growers Association as their Washington lobbyist, if you will, but we really worked with the Department of Agriculture and not with politicians, because rice was one of the five major products supported under various government price support programs at the time.
The Secretary of Agriculture designated me and about five other folks to go down to South America for the purpose of making a survey of their rice industry and trying to point out to them how they could increase their rice production.

We made a survey down the west coast of South America and up the east coast. There isn't any doubt that the California farmers are the most advanced farmers in the world. They shared that with the Spaniards for a while but then finally surpassed the Spaniards as the highest yield per acre. We wound up where at the time I left the Rice Growers Association we were getting 60 hundredweight an acre; that's 6,000 pounds per acre. And the Japanese, for example, who were great rice farmers, cultivating three-acre areas as against our 100 acres, 200 acres, 300 acres, some 1,000 acres, were getting something like 40 hundredweight per acre at the time.

So we went down and we were in fact subsidizing our own competition by trying to help them develop these things. It was an interesting experience. We did the same thing with the Australians, which had an interesting sideline. I went basically because there was a lot of law involved in this kind of business. We took the Australians to California and showed them all of our methods of growing rice. Everything was mechanical in California. We broadcast the seed by airplane. [Inaudible] these colorful pictures you see in Vietnam and otherwise simply sowing seed. We broadcast it by airplane. We fertilized by airplane, and the harvesting is by huge harvesting machines that are capital intensive but not labor intensive.

Of course, many of the people who go to these other places keep talking about mechanizing, but those folks have a lot of labor around, a lot of unemployment; so they don't need to mechanize in the same sense that we did. Anyway, with the Australians we showed them all of our methods, had them live in our rice mill for six years.

Then later on I went on a trading mission to Okinawa, which has a preference for Japanese rice, when Okinawa was under American jurisdiction: it had been promised to be given back to the Japanese but wasn't yet. Okinawa was the famous site of the Teahouse of the August Moon, the famous play. We were selling a huge quantity of rice to Okinawa. I remember one of the traders said there, "Can you meet the competition of the Australians who have the same kind of rice you have?" So after subsidizing our competition, we were asked to meet the competition. And as a matter of fact we did, on that particular occasion.
But the rice industry is always fascinating, because two-thirds of the world exists on rice, as you know, rather than wheat.

Hicke: It has a lot of protein in it.

Alioto: And I guess as an Italian I have a little bit of risotto in my veins. The Italians, however, put a little cheese on that rice and maybe some mushrooms and maybe some other fixings.

Alioto Enterprises

Hicke: Sounds good. Okay. There was one other thing back then that I thought we hadn't exhausted. You were the president of Alioto Enterprises in 1959. What was that? Anything exciting?

Alioto: Alioto Enterprises was just a name. It wasn't a corporation. I had made investments in land. But I guess that's not important to a legal career, except that I had made these investments with clients of mine. I paid my full share and never got an interest in anything just because I was a lawyer or as part of a fee. I paid my full share of the contribution. But I've been involved in the Castlewood Country Club, for example, over in Pleasanton. That was the old Hearst Ranch, which we bought and converted into one of the finest country clubs in the area.

I am presently involved in the Auburn Valley Golf and Country Club as a 40 percent owner. I had been in the past involved in cattle ranching and things of that nature and have owned property in San Francisco and theaters in Oakland, in San Jose, and in Salt Lake City. These are all private clients of mine. I always paid my share of the capital contributions.

Hicke: Okay. Then, I don't know at what point or what decade even this came along, but you were a consultant on the hydroelectric development and expansion in South Vietnam in the Mekong Delta, advisor to the governments of Puerto Rico and Hawaii.

Alioto: The only thing that I was involved in that with was in talking to their engineers and builders about some of the trade practices and pricing practices of the electrical manufacturers in connection with the dam. This came out of the electrical conspiracy case. My involvement related to that, not to any engineering or mechanical situations.

Hicke: Was that in the seventies or somewhere around there?
Alioto: I'm trying to think. That seems to me that was during my rice days. That would be from the period from 1959 to 1967.

Hicke: Okay. And then I have the case against, let's see, H&R Block, which was a client of Bill Orrick. And there was a case in 1967.

Alioto: Yes. We represented an H&R Block franchisee. His first name was Lee. I'll get you his last name in a moment. And that was a case tried by my son Joe. I got the case. My son Joe eventually tried the case. It simply involved antitrust situations where H&R Block was trying to convert its franchisees into company-owned sections, particularly after the franchisees had developed the territory. That was the lawsuit, but there wasn't anything notable about that lawsuit particularly. It was won by my son Joe under rather difficult circumstances and was one of the cases that proved really the great trial talent that my son Joe had then and has today.

Hicke: Okay, well, that's important, then. Well, we're moving right along here. How are you fixed for time?

Alioto: Why don't we just keep talking for a while longer.
V MAYOR OF SAN FRANCISCO, 1968-1976

The Campaign: 1967

Hicke: Can we get into politics now?
Alioto: Sure.

Hicke: I don't know where the best place is to start.
Alioto: Why don't we start at the beginning?
Hicke: Okay, let's start at the beginning.

Alioto: I had never run for public office when I ran for the mayor's office in 1967. There's an interesting story which I have told in some places but everything that's ever been written about it has been false as to how I got into the mayor's race in 1967. I had never run for office. But in 1967 I was named one of three campaign chairmen by Senator Gene McAteer, who on March 17 announced that he was running for mayor of San Francisco. It was traditional in those days that you announce on March 17. That tradition, as you know, has been broken in San Francisco for many years. March 17, which is the Feast of St. Patrick, is no longer as big a deal as it was during the time when almost all of the members of Board of Supervisors were Irish. During my administration none were Irish until I appointed Mike Driscoll to the Board of Supervisors.

But, in any event, Gene McAteer announced on March 17 and on May 1 dropped dead in a handball court at the Olympic Club. He was by all favored to win that race. The incumbent mayor at that time was Mayor [Jack] Shelley. So I simply announced--at one point Shelley had asked me to support him--and I announced publicly or he announced publicly that I was supporting him for mayor. He was running against Harold Dobbs.
Shortly after the announcement I took my family to Europe for six weeks. This was the year of the election, 1967, which shows how much I thought I was running for mayor at the time. When I got back from Europe at the end of August, just about a week or so before the sign-in deadline, I had learned that Mayor Shelley's physician, doctor, had told him that the strains of being mayor in San Francisco during that period of time, with half the cities in America involved in an urban crisis that witnessed kind of simultaneously a black revolution, a student revolution, a women's revolution, all types of revolutions. They should be called nothing but that. They were revolutions against what had been our way of life.

Anyway, it was announced that Jack Shelley's doctor recommended he get out of the race. And he took that recommendation. That left Harold Dobbs with virtually an election by default. A client of mine had some substantial differences with Harold Dobbs, who at one time had been his friend, his lawyer, and his business partner. Those differences led me to think, well, he shouldn't win by default. It's only six weeks, seven weeks to go. I would not have run if I had to campaign for nine months. Only seven weeks to go.

So I signed in. I signed in shortly before the deadline. And there were just about eight weeks to go before the election. It was eight weeks, not six weeks, maybe, or seven weeks before the election. I had never been in a campaign before.

Hicke: Did you have any kind of support rounded up?

Alioto: Yes--the support I had with the McAteer people, who had gone to Shelley, and the Shelley people, who had now nowhere to go. And the immediate support I got was from the labor unions, from Joe Mazzola, the Plumbers Union, Harry Bridges, the ILWU. The Teamsters were against me. They were for Dobbs, the Union Labor Party, so-called. But the Laborers Union, the Electricians Union, the Carpenters Union--the building trades generally were on my side.

And when [Ben] Swig became my finance chairman, I sat there in absolute wonderment. There were no maximums or minimums in those days. Ben Swig held a meeting of the so-called checkbook Democrats up in his suite at the Fairmont Hotel. I had told Ben, and asked his support, and told Bill Malone too, that I was going to run. Nobody asked me to run. The only one that was pushing me on it was Vernon Kaufman, who was a friend of mine, and he was not a big political figure. But he had been a friend of McAteer's as well.
He was pushing me. "Why don't you run? Why don't you run? You had semipolitical experience as an appointee on the Board of Education, and as an appointee on the Redevelopment Agency by Elmer Robinson." I was appointed to the Board of Education by Elmer Robinson, even though I had supported Frank Havener, Congressman Havener, the liberal congressman, against Elmer Robinson in the mayor's race.

Early Experiences: Board of Supervisors

Alioto: In those days the Board of Education, in the forties and before that time, had a quota composition. It had to have two women, two downtown representatives, one labor representative, and two Catholics. It was just that. There were seven members. Now some people covered two things. The other requirement was a couple of members of the Masonic Lodge. I finally broke that quota system. But I can't say that it was altogether bad.

The way I got the appointment to the Board of Education--I haven't said this anywhere else--it might be of interest to you. I was sitting in Paris one day on my way home and got a call from the Archbishop's office. Would I be interested in serving on the Board of Education? The only thing I had done up to that time was I had given a series of lectures on education around town, at various clubs and things like that. That was it.

But I was always fascinated with the subject matter, and said of course I would love to be. And he says, "Okay. I'll recommend your name to Mayor [Elmer] Robinson."

Hicke: You went on as one of the Catholics?

Alioto: As a Catholic. And the fact that I also was Italian and a Democrat covered a couple of other political things. I laughed about it. I laughed about it, because there is a certain humor as we think of what is going on now.

The same thing is going on in many respects only in different forms. Now you have to have certain members of the Chinese community, certain members of the gay community, certain members of the black community. It wasn't quite as stratified and strict as that division between the Masons, Catholics, downtown, and one labor union representative. That one labor union representative could also be, for example, a Catholic, as it was in the case of Charlie Fone, but not in the case of George Johns, who was the secretary of the Labor Council when I first went on.
So anyway, that's how I got on the Board of Education. And I found myself in a dissenting position with George Johns, the labor representative, on a great number of votes pertaining to teachers. I took a very simple view at that time that the teacher was the most important person in the whole system. That's the only relationship that mattered: the relationship between the teacher and the student. Everybody else from the superintendent to the janitor was there solely for the purpose of advancing that relationship as high as possible.

That put me on the side of the teachers in salary disputes and otherwise, and we did very well by our teachers in San Francisco, starting with two, just a minority vote, me and George Johns, the labor representative. George Johns and I, who were the labor representatives, kind of led the fight for the teachers.

We had an interesting legal battle. At one point the Board of Education passed a rule that the teachers couldn't campaign in the confirmation votes for the members of the Board of Education. See, the boards were appointed by the mayor and confirmed on a yes and no vote. Nobody was ever not confirmed, except once in the early days. The Catholic-Masonic rivalry in education in the thirties and in the twenties. People forget this stuff. It was a very, very important, controversial issue.

But the confirmation votes were pro forma and the Board of Education, the downtown representatives particularly, said that teachers couldn't campaign. I had just gotten off the board at this point, but I had been supportive of the teachers. I got six teachers in my office, and we worked out a situation where they were going to get alternate jobs and told them to defy the ban because I thought it was unconstitutional.

We brought a case on it, brought an injunction case. And before the injunction case was heard, the state legislature, taking cognizance of the case, overrode the San Francisco Board and provided that teachers were free to engage in elections relating to educational appointments, as school board members or otherwise. So from the law standpoint, that was kind of an interesting case.

I'll always remember that the real battle was with the Irish, one Irish school principal and three Irish teachers, out of the six of them. The only one who hesitated and thought in terms of security was one of the Italians. But the Irish, they were going to fight it out. But I had secretly arranged for jobs for them so that they wouldn't lose their livelihood. Two of them didn't know it. They didn't care. They were the real battlers.
Anyway, we won that lawsuit. First, we filed the injunction suit, but before it was final we got the legislature to cure the matter.

From that I went to the Redevelopment Agency, appointed by Elmer Robinson, which was kind of a real troubleshooting spot. There were lots of problems with redevelopment in those days. This was an appointment.

So I had no prior experience in running in a contested election. To get back to the mayor's race, none of us knew what the hell we were doing. We were all amateurs. All my cousins were getting on cable cars, running around in cowboy outfits with balloons and that kind of stuff.

Anyway, in the seven weeks time we managed to win that election, to everybody's surprise, because a week or so before the election all of these sophisticated polls, and that's why I've never believed them, had 43 percent for Mr. Dobbs and 17 percent for me and the rest undecided. One week before the election. That's why I don't believe in polls.

Continuing Law Practice

Alioto: So anyway we won the election. It changed all of my life. I had Max Blecher, who was one of the great antitrust lawyers of the country, there in my office, and he kind of ran the office for me. My son Joe came along and became a first-rate trial lawyer and did an excellent job. My son Lawrence was in the office.

I was still a sole proprietorship. The office still belonged to me. There was no prohibition against a mayor having another occupation, although I didn't work at it. I just consulted with my children around the table on the weekend, discussed the cases. Prior mayors: Jim Rolph had been in the shipping business. Angelo Rossi was a famous florist, had a famous floral shop in San Francisco. Roger Lapham was of course in the shipping business, the American Alliance, shipping business. Elmer Robinson was in the cemetery business. George Christopher was in the milk business. The only one who didn't have an outside occupation was Jack Shelley.

Then I came along, and I was in the law business. I stopped practicing law and simply advised. But during my term as mayor I argued that case in the Supreme Court of California. We had a vote out at Hunter's Point for a school out there. It was a requirement that we had to have a two-thirds vote. And we won
that election at the Hunter's Point school. Turned out to be 66.4 or .5 percent, just short of two-thirds. I thought that violated the one man, one vote rule. And so we took that case all the way to the Supreme Court of California.

And just before a decision, as I recall it, another case came out of Virginia and went to the Supreme Court, and the Supreme Court held that that did not violate one man, one vote rule. But I had already argued in the state of California, free, for nothing. My client was San Francisco. And I had made a rather important decision with respect to labor; the right of public employees to strike and the right for collective bargaining and all of those are set forth in somewhat great detail in that thing so I won't repeat those here.

And then as far as antitrust was concerned I tried to keep my hand into antitrust during that eight-year period of time. It was literally a sabbatical from my law practice. I went into the mayor's office and when I got out of it, a month later I had the Capp case, tried the Capp case for about a month. And then continued on just doing what I had done all my life since I was twenty-five.

Hicke: I want to go into your years as mayor in detail.
Alioto: Yes, I'm going to cover those years in a moment. But during my years as mayor, the only thing I did in my law firm was to take certain arguments in the court of appeals where we had a set time for thirty minutes. Because I couldn't take a trial. I couldn't take depositions or anything like that. But a set time for thirty minutes, I took that.

The Look Magazine Libel

Alioto: Then during my years as mayor I had represented myself in some tough lawsuits. In 1968 I had nominated Hubert Humphrey in that very controversial convention in Chicago; I nominated Hubert Humphrey and he won the nomination. Then he lost to [Richard] Nixon by one vote per precinct. And I personally have told Senator [Eugene] McCarthy to his face that if he hadn't sat on his hands, Humphrey would have won that election and we would have been spared Richard Nixon and we'd have been spared Watergate. We'd have been spared a lot of things. And Humphrey would have been a great president.
Of all the politicians I have met over the period of time, in terms of just human qualities of sincerity and honesty and committed purpose for unpopular causes, there was nobody like Hubert Humphrey. He was an unusual man.

Shortly after that, as later was confirmed to Ray Taliaferro, the radio announcer, learned from a public relations man in the Department of Justice. They thought that I shouldn't be running for governor of California in 1970. So a vicious libel appears in Look magazine saying that I wasn't a member of the Mafia but I was entwined in the web of relationships with people who had Mafia connections.

The article invented a meeting that never took place at the Nut Tree [Restaurant] between me and a gangster, Jimmy Fariano, who later became notorious for being a stool pigeon and being paid more for being a stool pigeon than for any criminal activities he engaged in. They said I had a meeting with him in the Nut Tree. The meeting didn't take place, just didn't take place.

The article came out, nevertheless, and was first publicized by Ronald Reagan. I watched Ronald Reagan on television lie about it. He said that he had nothing to do with the article, nor did he have anything to do in publicizing the article. He actually got a copy before the stuff was on the street, had it mimeographed and distributed to a group of Republicans at a statewide convention meeting.

I took Look on in a rather famous libel trial.1 I'm the only public official who ever won a libel trial. In the first one, Look magazine conceded that the article was false and defamatory. The only question was malice. They said that they were negligent but not malicious, and the jury disagreed on that 8 to 4, I think it was, in my favor. But you need a unanimous verdict in the federal court. I brought it in the federal court because I figured they were going to move it to the federal court anyway.

In the second trial we started out--the judge instructed the jury in both cases that the article was false and defamatory and the only question was did they do it maliciously or negligently? If negligently, they were spared, because I was a public figure. So again, the jury disagreed and of the jurors that voted for negligence as against malice, two of them said quite openly, "I don't like Alioto's gun control law," which was simply gun legislation.

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Hicke: You're talking about ones who voted against you?

Alioto: Yes. Now, during these trials, they made the mistake of giving me the subpoena power on depositions. We subpoenaed the authors of Look and everything else and it appeared that the article was written from thirteen interviews given by FBI agents in violation of law to these two writers that nobody ever heard about. I always suspected that the real impetus on this thing came from certain people in the Chamber of Commerce and have an anonymous note to that effect.

Anyway they got John Mitchell to open up the FBI files. The FBI files had nothing to do with me. They had to do with certain people whom in the past I had represented as a lawyer. And incidentally, at my first trial the president of the American Bar Association and the attorney general of Hawaii came forward and said, "Even a criminal has a right to be represented." The criminals we're talking about were not big Mafia figures. One was a gambler around here named Emilio Giorgetti who was trying to go straight with his gambling by going down to Las Vegas where he set up a thing there. I knew members of his family. They were very nice people. He had one girl who was in a convent down here, and she was very much upset with certain publicity.

That's why I defended him in the tax case. And he was the only guy who didn't go to jail of certain people like Bones Remer and others. I defended him in a tax case. I was doing criminal tax cases at the time for a number of people, and one of them was a fellow who happened to be a past gambler but was not a member of any Mafia or anything like that. There is no organized Mafia here. That's a specific finding by [President Lyndon] Johnson's Crime Commission. Chief of Police Cahill served on it and insisted they had to say that there wasn't any Mafia organization in San Francisco. And it's true. There never has been.

Some people have said the only reason why there's no Mafia organization is because during Prohibition some of the policemen around here didn't want any partners. Nevertheless there was that finding. But this was the time when there was kind of a dementia Americana about the Mafia. Look and Life were vying with each other to see who could tell the biggest Mafia story.

In any event, it was proved that Mitchell had authorized these thirteen signatures. Later on I complained about this to Sam Erwin, and Senator Erwin came out and made a public statement on television and radio that "Mayor Alioto was the first man to give me any real evidence of what later turned out to be the Watergate syndrome." John De Luca, who was my administrative assistant, was the one who was active in that.
The Department of Justice [Inaudible] the Urban Committee. Interesting fellow who went, too, and said, "We acknowledge that what was done was wrong, and those procedures have now been tightened up." The young attorney to the Department of Justice who went down and made that confession and admission was a fellow named [William] Rehnquist, who later became the Chief Justice of the United States.

Okay, then, not content with the Mafia article--

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Alioto: Remember a man named [John] Erlichman?

Hicke: Yes, I remember him.

Alioto: Mr. Watergate, who went to jail. Erlichman got the then U.S. Attorney General of Washington to bring a criminal indictment on a fee-sharing case up in the state of Washington with an assistant attorney general, who had the right of private practice and whom I informed the court I was paying, who was working with me and informed the Internal Revenue Service on regular forms that I was paying him, worked with me. I informed the court and he informed the court.

But they brought the indictment anyway figuring the indictment was all they wanted to do. This was Erlichman. In the depositions we developed the fact that the attorney general of Washington, who later became the senator--his name is connected with a famous fish family in New England--Slate Gordon was in there conferring with the Department of Justice and Erlichman put his head in the door and said, "Nixon is interested, the White House is interested in this case."

So they brought this phony indictment. We got it in court in Seattle. I insisted on an immediate trial. Tried it myself. The judge threw it out. And when he threw it out he turned to the Department of Justice, and he was really mad. "Why did you people bring this bad case? Shouldn't have done it." And threw the case out.

All right, but it was enough to cost me the governorship of California against Ronald Reagan in 1970 and enough in 1974, the other time I ran, because it wasn't dissipated then. I think it's completely dissipated now, first of all because of my victory in the libel case and the fact that when the judge threw this out, he was really angry. He said, "Here's a man who told the judge at the time that he was giving part of the fee to this assistant attorney general who was working with him. He was representing
part of the public agencies, not state agencies, autonomous public power agencies in the state of Washington. The attorney general had a right of private practice on these and told him he had a right of private practice."

This was all done with checks reported to the IRS, reported to the court. "Why did you bring this case?" He was reading that.

Hicke: Well, what was behind all this?

Alioto: Mitchell, Nixon, and Reagan. I don't think there's any question about it.

Hicke: They wanted Reagan to win the governorship?

Alioto: I have no question about it. I don't think there's any question about it. Later on the public relations man, Ray Taliafiaro, who's an announcer on ABC, the black announcer, he's got the talk show, was told by a public relations man in Mitchell's office, "We felt that Alioto had to be stopped politically." This was after I nominated Humphrey, remember that. I was in office just six months when Humphrey asked me to nominate him, and I was named by him as one of four persons whom he was thinking about for vice president, and the two last were myself and Ed Muskie.

I hadn't had too much to do with [Richard J.] Daley at that time who later became one of my best friends. He was a wonderful mayor. Among the mayors he was really about my favorite, he and John Lindsey, but basically Daley. He and I were on the same kind of wave length in many respects. Mayor Daley needed a poll, he told Humphrey. He hardly knew me at this time. I had only been the mayor for six months. Later on, when I got to know Daley quite well, he said, "You know I made a serious mistake. If we had had you on the ticket, I think we could have won." This was before all of this nonsense in Look magazine, which came a year later.

**Martin Luther King Assassination**

[tape interruption]

Alioto: [continues, now talking about problems related to the assassination of Martin Luther King] I asked them all to come down and just before we went down—we had a big platform in front of City Hall and we got a tremendous mob—and just before we went
down, the Police Department, a police officer, came up and said, "There is a bunch of young kids from one of the high schools in Daly City and they're all armed." I said, "Yes, well invite the leaders up here right now. Right in my office." So they went down and they brought three or four black kids, young high school kids. I told them at the time, "I want you to march down here and sit on the platform." So we did. We marched down, sat on the platform.

The police said that there were a lot of people armed within four or five feet of us all. In any event, we had this ceremony, condemned the slaying of Dr. King, what a horrible thing it was, pointed out his nonviolence message. I think that somewhat assuaged the emotional feeling for revenge that existed in the black community, with considerable justification.

Lyndon Johnson called me about that and, in effect, he said, "I'm glad that you were able to keep that under control." So I got a lot of publicity and a lot of notices on that and a number of other things that happened in 1968. It was the year when the cities were all in revolt. The Black Panthers were organizing. We had managed to keep them out of San Francisco.

**Other Riots**

Alioto: The students in Berkeley were rioting. I invited them all to come to San Francisco but I made a tough condition on them. The condition I made on them was that, "You can have all the dissent you want, but not one bit of violence. If there's any violence, we'll stop it, and we'll stop it with all of the force that's necessary to stop it, and I mean it too." We had the policemen help them. We gave them platforms and microphones and the police helped them with the parade permits and even distributed their literature.

At San Francisco State, they decided that that wasn't enough. They were going to get tough. The first thing I did, I asked a group of black leaders in the Hunter's Point area, to whom I had given certain status, I said, "Go on out there please and keep that thing under control."

There was a good deal of incitement by Black Panthers and others. This was the thing, you know, that got Sam Hayakawa elected as senator, because of the stand he took there. At one point, Hayakawa didn't think we ought to have policemen on campus. I took a very tough view on that. I said, "I don't care where the
violence is within the borders of San Francisco. We're going to stop it. It doesn't make any difference to me whether it's on the university campus or any other place. There's no reason for university campuses to be exempt from police protection when violence breaks out."

Anyway, we warned that crowd out at San Francisco State. Dissent, yes. I arranged for seven hours of television on Channel 9, public television. These guys got up there and instead of saying anything intelligent, they just said a series of expletives, swear words and everything else. Anyway, I got it for them. Seven hours. And when they rioted out there, I told the cops to break up the assembly, give them five minutes to break up the assembly, and arrest everybody who wasn't gone. We did that. We arrested a whole bunch of them.

Then we got the business about, "We want amnesty." I said, "Amnesty, your eye." At that time--I don't know why this came to my mind but it did--I said, "Look, you guys want to be heroes and I want you to be real heroes. I'm looking to help you. How would it have sounded if Patrick Henry had stood up in that Virginia legislature and then said, 'Give me liberty or give me amnesty,' instead of 'give me death'?" It got to be a joke. "So you guys all go to court."

We tried about 130 cases and said, "You've got to get a taste of this stuff." That stopped the thing. Hayakawa became a senator based on that, even though his initial view to me was, "Don't send the cops on campus. Or at least send in meter maids or let them wear leis." I told him to go to hell on that. The cops were going to be any place where violence was threatened, where anybody was carrying a knife, a gun, or a rock. It didn't bother me where they were. That was the situation.

Zebra

Alioto: Then there was another situation that involved a legal principle as you will see from the tapes, everything [Inaudible]. You may remember something called the Zebra case?

Hicke: Ah, yes. I'd just moved here in 1975, so I didn't get in on any of this earlier but I--

Alioto: This happened in '74.

Hicke: I know. I had read about it.
Alioto: We stopped them in '74. Anyway, Zebra was a cult that started over in Berkeley, then went down to Compton, and then came to San Francisco. The pattern was very clear. In other words, they'd go into black and white communities, go into laundromats, walk through ten or twelve blacks to a white woman and kill her, then put her in a sack and dump her out at the beach somewhere. We'd find these decapitated bodies out at the beach. There was a big police effort on it.

Some people had seen--this is where the law part comes in--some people survived and they were able to give the police artists the composite drawings. You tell them what color the eyes were. Somebody else told us what color the hair was. Somebody else told us how big he was, and all of that business.

I got all of my black leaders around me, and at that time I had a black leader who was on the police commission, a black leader who was president of the Public Utilities Commission, a black leader who was president of BART. My credentials were very clear and I thought I could do this.

I appointed the first black leader as deputy mayor of San Francisco and a black leader who had been a waterfront leader, a left winger. He's still living. He has a great history. Revels Cayton, whose grandfather had been a senator during the Reconstruction period in the South. He was a tough labor leader on the waterfront in the ILWU. One of his companions was a man named Coleman Young, who is the present mayor of Detroit.

I got all these guys behind me, and I told the police to take this composite and just to roam any of the areas in San Francisco where there was a reason to suspect that this cult was operating and to stop anybody who looked like this person. So there is a big hullabaloo by some of the civil rights groups. They went into the federal court and said that this was unconstitutional. I said it wasn't.

At the same time, Patty Hearst and the SLA problem had occurred, and we had put on a big police effort on that one. This is what drove that crowd down from here to Compton, where they were all shot up in that house situation, you remember.

So I said, "Stop anybody who looks like him." I argued at the time that if we were looking for Patty Hearst, for example, we had the right to stop anybody who looked like Patty Hearst and ask her to identify herself. I said there was no difference. We had a composite picture and these composite pictures in the past had proved to be remarkably accurate.
There was a big hullabaloo about it and they went out to court and they got into Judge [Alfonso] Zirpoli's court. Judge Zirpoli was never particularly partisan as far as I was concerned, even though he swore me in as mayor when Judge Harris wasn't available to do it, whom I had asked to do it.

Judge Zirpoli issued some kind of an injunction at the time, and I still argued. We were going to appeal it and everything else when suddenly, I was down in San Diego, campaigning for governor in 1974, and I got a call that said that "There's a guy up here who has read your reward notices and wants to tell you about the Zebra murders but he won't talk to anybody but you." I said, "Fine." This is at twelve o'clock at night. I said, "Keep him there." I was running around somewhere campaigning, and I got on the next plane. It was the one a.m. plane and I met with this guy in my office at three a.m.

Now comes the legal part of it again. [Inaudible] I asked that he have his lawyer present. Then I called Terry Francois, who was a member of the Board of Supervisors and a black, was the first black member of the Board of Supervisors, and a lawyer. I said, "I want you to come down to my office."

We gave this fellow all the Miranda warnings and everything else. He told me this horror story--and he had some authentication--absolute horror story of this cult in Chicago that gave wings and special privileges based on the Koran that the white man is a devil and you've heard that repeated recently, as you know, in the Gulf and that anybody who kills a white man is doing something that's pleasing to God, pleasing to their god.

The highest prize you could get was for sending back a severed hand of an infant, of a white infant, and we had found these bodies on the beach, you know. They were severed and decapitated and all that. I guess there were about thirty of these murders before we stopped them. This was just a confession. I had to weigh the question out: [Inaudible] was this sufficient evidence on which to act?

There was a ring involved that had been identified by one of the survivors and described by one of the survivors who was left for dead in a van up here in North Beach somewhere, and that ring was identified as having been in the possession of these four men that he told me we were running these things. These were Black Muslims, religious Muslims, well dressed, black suits, white ties, very good haircuts, and very puritanical--extremely puritanical--that were doing all of these things.
So we had the confession now. We had it on tape. We did all of those things. The next morning I went over to Jack Ferdon, the district attorney, with Chief Scott; Don Scott was the chief of police at the time. I told them about it and told them we wanted to issue a warrant of arrest. To my shock Ferdon sat there and said, "We don't have enough evidence." I said, "Jack, what the hell are you talking about? With this kind of stuff, we have the identification of the ring. We have details that could not possibly be known and the police have some corroborative stuff."

There's a book written about this, by the way, but not this phase. This has never been made public, what I'm about to tell you. He said, "We don't have enough evidence." At that point, I said, "Look, Jack. I've tried more cases than you have. I know something about the rules of evidence, too. I've tried a lot of criminal cases, defended a lot of criminal cases. You'll just forgive me for what I'm about to do." I turned to the chief of police, Don Scott, and said, "Don, you go out and arrest those four people at four o'clock tomorrow morning. Keep them under surveillance until then."

They did. They tried them. It took about nine months to try them. They're all in jail today. One of the people shot in the Zebra murders is a fellow you may have heard about. His name is Art Agnos. He was wandering around Twin Peaks one night, coming out of a social workers' meeting of some type where he was doing the usual great social work that's characteristic of a mayor who is a very compassionate man. They shot him. They left him for dead. He's written about it. They tore up his stomach pretty badly and the intestines, but they were able to put him back together again. He's a good, healthy, tough guy and survived.

Just about three or four months ago, they were about to let these guys out on probation and the mayor went up and testified against it and they didn't grant the probation. So, there is a case where politics and law were intimately connected. I was satisfied that the evidence was sufficient for a jury to convict beyond all reasonable doubt. They did, and the verdict, I don't think, was ever appealed. They just went straight to jail.

At the time I first made this statement that this was a cultist thing that started in Berkeley, where these things start, went down to Los Angeles, and came back up here. The chief of police of Los Angeles, who later was kind of a semipolitician, said, "I guess Alioto must be getting that stuff out of Fleishhacker Zoo." After the confession, I sent him two free tickets for admission to Fleishhacker's Zoo.
Anyway, the confession was so obviously right. He was given a tough cross-examination. He was motivated by the reward. He kept asking me, "Does my wife get the reward, even though I go to jail?" I said, "Yes, she does." He told us the story.

Hicke: Maybe that's a good note to stop on for today. Are you ready to call it quits?

Alioto: Yes. Anyway, there was law and there were other features. It was a place where law and politics met.

Hicke: That's really very interesting: where they meet.

Campaign of 1971

[Interview 5: March 20, 1991] ##

Hicke: I have a note to ask you about Scott Newhall running against you for mayor in 1971. Is there a particular story to tell?

Alioto: Yes. The 1971 campaign was an interesting campaign, because I was under attack by the Nixon administration and by Erlichman and the state of Washington, as I previously discussed, and my opponent in that case was Harold Dobbs, who had run against me in '67. Dianne Feinstein, whom I had appointed to her first political job in San Francisco and had supported her in her quest to become the president of the Board of Supervisors, decided to run against me. She has since said that she regrets that indiscretion of her youth but anyway she did it, and Scott Newhall was running.

Scott Newhall was the publisher of the San Francisco Chronicle with whom we had had a very interesting episode that I think I have relayed to you—the time when he showed up in the sheriff's office and demanded to be arrested because I had sponsored and signed a 1/2 percent payroll tax which applied to newspapers as well as to everybody else. He thought that this was a violation of the constitutional rights of the free press, which of course was baloney, and I got a call from the sheriff one day on the fourth floor of City Hall, and he said that, "Scott Newhall is here demanding to be handcuffed and arrested. What should I do?"

I said, "I'll tell you what you do. Go over and get a shorthand reporter and take this thing down word for word. We'll sell it to Jackie Gleason or Laugh-In or one of these comedy groups. We could make some money for the city on it." Then I had
a press conference about the matter and said that Scott Newhall is upstairs trying to make like Émile Zola and coming off like Gorgonzola. It was therapeutic, so far as I was concerned, but he thereafter started a personal investigation against me, and when I called him on it he said, "Oh, this is the routine thing we do after a mayor has been in office a while." Which of course was baloney, just false.

Later on, he said that he had dismissed it as there having been nothing at all. But the basic facts showed up in a Look article. So, as you can see, this is the way politics goes.

Hicke: Yes.

Alioto: However, he was an amusing man, and during the course of the campaign I took him around with me and provided him audiences, in some respects because he was an interesting debating partner. At that time his big campaign was "No highrises in San Francisco," and he lived in the Fontana Apartments, which is one of the most offensive highrises in the city. So we had a good time with that one.

Anyway, when the election was over I came in first, Dobbs came in second, Feinstein came in third, and Scott Newhall came in fourth. That was his place in that election. At the time, I told Dianne Feinstein, "You know, you ran against me after I gave you your first political support because you thought I was in trouble with the Republican administration." I said, "I didn't mind that. I did mind the fact that you couldn't even beat Harold Dobbs." She came in third. I have since, as you know, supported her, and most Democrats supported her in her governor's race against Pete Wilson, although I endorsed the attorney general in the primaries. That is the story.

Hicke: I wanted to remind you of something else you didn't get on tape, and that was John Mitchell's, well, I think it was he who said, "He who takes up the sword." Or was that you?

Alioto: Yes. I had already told you that after we won a unanimous verdict in the civil case that was tried in Vancouver, Washington, on the banks of the Columbia, Portland being directly across the way, I said publicly in the press statements, "John Mitchell is going to learn the wisdom of the biblical injunction that he who takes up the sword is going to perish by it."

And, sure enough, he wound up in jail, as we all know, because of the Watergate scandal. I had the subpoena power in the Washington cases. I made that statement at the time that the complaint was filed. I had the subpoena power, and we took John
Mitchell's deposition. At that point, it was just before he went to jail or just after he got out of jail when [Inaudible] in his apartment in New York and asked him about the allegations as to why thirteen interviews have been given to the offices of the Look magazine by FBI people in a clear violation of law, and he claimed to have known nothing about it.

As I told you earlier, the whole thing was condemned by Rehnquist, who is now Chief Justice, at the time when he was a lawyer for the Department of Justice as a violation of the Department of Justice procedures, and I don't think that that violation would have occurred in these circumstances, when you look at all of the other evidence we've talked about of Nixon's enemy list and Mitchell carrying on all the dirty work. I don't think that could have occurred without Mitchell's knowledge. He denied it under oath, but we have known that he has falsified testimony under oath in connection with the Watergate hearing. That's it.

Promotion of Qualified Minorities

Hicke: Well, I have some thoughts about what to ask you about your period as mayor, but perhaps you could just tell me: what do you think were the major challenges and successes of that time?

Alioto: There is an article written by Susan Sward of the Chronicle, if you can get your hands on it. It was written about five or six years ago. Ask Susan about it. It was a lengthy article in which she interviewed me and asked pretty much the same questions, but let me give you some of the things.

The immediate crisis in '68 was the racial crisis, the race discrimination crisis and the racism that was being widely practiced. It's still widely practiced in the country and that of course culminated in the assassination of King. Martin Luther King was killed in April of 1968 and I believe I told you the story of the crisis.

Hicke: You did talk about that.

Alioto: That was a major crisis. In other words, somehow stabilizing the tensions, volcanic tensions that existed in the black communities, principally in the central cities, and that included San Francisco. That was one major threat. I think I have told you already a good deal about how we accomplished that.
I think I also told you the story of the Zebra murders, and at the time we had to do what we had to do in connection with the Zebras. As I say, we had an Afro-American who was head of the Police Commission, an Afro-American who was head of the Public Utilities Commission, an Afro-American who was deputy mayor, another one who was president of BART.

So there wasn't any question about our credentials. My basic notion was that the way you solved it was not by law or otherwise, but by giving qualified blacks positions of power in government. The president of the Police Commission is in a strong position to see to it that the relations between the police and the relations between the black community were maintained on the basis of fairness, and if any abuses took place, he was in a position to do something about it. When people came to me, for example, with stories, some genuine, some made up, about alleged police brutality in the black communities, I would simply say, "Look, we have a black commissioner, one you highly respect." Everybody respected Dr. Washington Garner. "So you go to him. There isn't any question about the fact that you're going to have a sympathetic ear. I'll back him up and I'll support him."

Anyway, I think that the quick stabilization of racial tensions by the promotion of qualified blacks to important administrative positions in the city government was in my opinion the major problem that had to be dealt with and dealt with immediately. It wasn't solved overnight, but it's a long, long way in San Francisco from the days of Eldridge Cleaver and the Black Panthers as to what we achieved by the end of that eight-year term. There's a big gulf between those two areas. I think I've already told you about my debate with Eldridge Cleaver on Channel 9.

Hicke: No, I don't think you have.

Alioto: When everybody else was afraid to talk to this guy, I told him that I had seen tougher kids at Fisherman's Wharf. He didn't bother me, and what the Black Panthers were doing was wrong. They were espousing violence and violence was going to be met, no matter who was creating the violence. It didn't bother me. I think that that was the first thing. Then we had the student demonstrations. I think I've already indicated again to you that we took care of the student demonstrations very simply--all the dissent they wanted, but no violence. If there was any violence, we'd arrest them. If they were arrested they were going to have to go through the regular court procedures. That stabilized the situation.
Then there were women who were demanding equality, as they should have demanded equality, and it was long overdue. I set up a Commission on the Status of Women and appointed very prominent women to that commission to in effect monitor what was going on in city employment, first of all, and then city appointments. I backed that up by the appointment of a lot of women to important positions. For example, the only woman port director in the whole world was a woman who had been recommended to me by the hotel men and other men in San Francisco.

We put women on commissions: the wife of Senator McAteer, who had died and except for his death I would never have run for mayor. He would have been the mayor. I put her on an important commission. I appointed a committee to study crime in the big city and appointed Dianne Feinstein. That was her first appointment to any government position. I put other women in other areas and supported Dianne Feinstein to be president of the board when the other members were prepared to scrap the old line tradition: whoever got the most votes in the election should be the president. Because Feinstein got the most votes in the election, they tried to thwart the normal procedures and to deprive her of the position, and I came out and supported her because I thought it was important in terms of the women's equality position that we were taking.

Crime and Public Housing

Alioto: Then, there's always the business of putting down crime, and we made intensive efforts on that. We told everybody that there were basically three pillars to the structure in which we hoped to put down crime. First was just rugged enforcement within constitutional limits, and I thought there was plenty of room within constitutional limits to have tough enforcement against people who commit crime.

Secondly, we had to work intensively on community relations between the police and the community. That was done, as I say, mainly by appointing blacks to prominent positions in the administration of criminal justice.

Third was the business of working to see that people had jobs and that they had decent schools in the neighborhood and they had a decent place to live in. We had great pride in the redevelopments out at Hunter's Point and the Western Addition that now have risen to literally market value housing. If you look at those two things, I recall, and I think I have already told you,
when I showed Mayor Daley and Mayor Lindsey the Western Addition as one of our ghettos, they said, "You gotta be kidding." I said, "No, this is one of our ghettos."

But anyway, that housing and the schools and the playgrounds and the black areas—you had to do dramatic things which in themselves didn't mean anything but were symbols of what you wanted to do.

Hicke: How were you able to accomplish this?

Alioto: We had a redevelopment director whom I was told to fire—Justin Herman. I had known Herman before and, as a matter of fact, he was even an adversary in a lawsuit in which I represented some of the produce dealers when he was trying to evict them on a sudden eviction as the redevelopment [Inaudible]. I was told he should be fired because he was a hindrance, but I had great respect for Justin Herman's ability, and rather than firing him, I supported him against all of his enemies. And together we worked out the housing with the public housing—a man named Aeneas Kane was the head of that. We put together the housing patterns in the Western Addition, which you can now go out and look at, and in Hunter's Point. We insisted that we were going to build market value housing, not cheap housing. Because with cheap housing, you have a maintenance problem and it deteriorates quickly. We'd have market value housing and do the subsidy on housing by subsidizing the rents.

As I say, if there are better housing developments, public housing developments, anywhere in the world, anywhere in this country at least, and even anywhere in the world, than the Western Addition, which you can go out and observe, and Hunter's Point, I don't know where they are.

The other one we did, of course, was the Diamond Heights redevelopment. And there you had a great number of members of the black community who moved into Diamond Heights, into those lovely homes up there, which have now achieved market value status. And that just triggered the whole thing. Harry Bridges of the ILWU—and I worked intensively with him on this thing—sponsored a housing development just below the cathedral in the Western Addition, St. Francis Square, in which there was a predetermined one-third black, one-third Caucasian, and one-third Asians. That's right in the heart of the city and became a very desirable situation. All of those efforts, as I say, built up housing.

Now, one of the sad things is that about 10 percent of the black population has moved out of San Francisco in the last ten years, simply because living in San Francisco is expensive
compared to the East Bay areas, where they are moving. But in any event, I think that we have achieved racial harmony in San Francisco beyond any major city in this area.

The events happening down in Los Angeles, for example; it's just inconceivable that they would be handled that way here. Two police chiefs--right in the beginning when I told the police chief that he was to have policies that didn't disturb the gays as long as they were involved in private matters like their bars, their local bars that they congregated in, not to roust those bars as they used to in the old days. I also made it very plain that we weren't going to put up with any police brutality on blacks, and in that period of time there was very commendable restraint shown by policemen, even very provocative situations. Because some of the blacks were provocative and some of the blacks were being egged on by the Black Panthers. All of the business, you remember, about the pigs. The cops were all pigs.

There was one episode that I may have already told you about where a policeman who did have certain funny ideas about racial inequality killed a black man in circumstances which absolutely showed no justification, but they got a white jury to acquit him. I directed the Police Commission to fire him despite the jury verdict. That became a rather cause célèbre, but it simply indicated that what we were going to be doing in this town, that we weren't going to tolerate those borderline episodes where one degree of force beyond what is necessary is used.

On the other hand, I always insisted in situations of violence and crime that the police were justified in using every degree of force available to them under the constitution to take care of the situation.

So this was a constant thing of enunciating the principles that we were going to be operating on--appointing men to fill spots on the commission. And then the appointment of Al Nelder and Don Scott as police chiefs. These two men, I think, in the final analysis, stabilized relationships between the police and the black communities and gay San Francisco in that period of time--the best relationships between blacks and the police department of anywhere in this country. That was a significant situation.

The other thing that had to be done was to put San Francisco on a business basis. For many years they had followed the practice of raising property taxes that would simply generate huge surpluses at the end of the year. Those surpluses would be carried over from year to year, and I think we got those torn loose and kept property taxes at a minimum during an inflationary
period by utilizing those surpluses which were being stored away. Surpluses stored away are going to be used some time in the future, you never know for what.

**Beautifying San Francisco**

Alioto: We had to deal with the usual business about keeping the streets clean and we encouraged and had programs of underground wiring on a regular basis.

[tape interruption]

Hicke: We were just talking about the streets and underground wiring.

Alioto: Yes, we had programs of taking the telegraph poles off the streets and putting those wires underground and that's a continuing program. We've made great strides on that in San Francisco. It was just a matter of a scenic thing.

Hicke: But that's important for San Francisco.

Alioto: Yes, it's very important to San Francisco because of the great city that it is. A great scenic city. The protection of the environment by recreating open space was important to us. And we had very stringent—we had put a forty-foot height limit on the waterfront. If you look out the window you'll see that nothing is over forty feet on the waterfront, and that view is never going to be obstructed. One of the things that caused that to be brought about is in prior administrations they had permitted construction of the Fontana apartments down on North Point, and they obstructed the view of a lot of people. It gave the people who lived on the north side [of the apartment buildings] a great view but obstructed the view of everybody else. So we have a forty-foot height limit there and we have height limits in Chinatown to preserve the character to Chinatown, and we provided a sixteen to one ratio: that you can only build sixteen stories on your lots downtown and if you wanted to build anything more, for example, if you want to build thirty-two stories, you would have to have an open space that was comparable to it.

Then in our redevelopment programs and in connection with granting private permits, we insisted on all the mini parks that you see around downtown. They have beautiful fountains and walkways and little mini parks. The TransAmerica mini park is one good example that I'll explain to you in detail. The Zellerbach
building has a mini park around that. There are many of these open spaces downtown, which is a trade-off for highrises.

There was a lot of pressure put on people in connection with the building of Embarcadero Center; there was a requirement that 5 percent of the construction money should be used in artistic things, in sculptures. You have sculptures down there by [Henry] Moore and others and rather modernistic sculptures on the buildings themselves. Attempts were made to stop that Embarcadero Center by some people in town, including Allan Temko of the Chronicle, who recently was given a big prize for being a great architectural critic—an award that I find difficult to understand but there it is. I felt that private designers should be encouraged as long as they were within zones. An attempt was made to kill off the TransAmerica building, with Herb Caen and Temko popping off to the effect, oh, they ought to bring that down to Salinas or Fresno or Los Angeles but not San Francisco. Of course, the Embarcadero Center and the TransAmerica building are now heralded as landmarks and things of beauty.

I simply took the view at that time—even though the public planner opposed the TransAmerica building—that public planners have no monopoly on architectural wisdom, particularly on architectural design, and that TransAmerica was operating within our zoning laws, leaving a space, and they built that beautiful garden at the base of it with the redwood trees and the fountains—beautiful place. It's a great satisfaction to me as I stroll downtown on these sunny days and see literally thousands of people in these little mini parks having lunch and listening to music, some symphony music, some jazz, some rock and roll, some traditional operetta type music. You have a good deal of that in San Francisco. San Francisco's downtown is a very pretty downtown.

The silhouette of the city is a very pretty silhouette. As a matter of fact, 20th Century Fox, in connection with the picture called "The Towering Inferno," reviewed all of the silhouettes of the major cities of America and concluded that this one was the best one for photographic purposes. "The Towering Inferno," you remember, was done here. We encouraged a great deal of motion picture production in San Francisco and revived the film festival, because it created a lot of jobs locally and also was a way of showing off the beauty of San Francisco to the public generally.

There were many, many other programs. It's hard to remember them all. On open space and recreation we negotiated an arrangement with the Presidio whereby for every tree they took down they had to plant another one. And for every home they
built, every new space they occupied, they had to demolish comparable space.

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Alioto: In the Presidio, when they built a new structure, they had to demolish some other structure in comparable area, comparable acreage, comparable square feet, where the buildings were obsolete or falling down. Then we negotiated that arrangement that opened up that promenade from Fort Point to St. Francis Yacht Club. I think I mentioned that previously. That gave you a continuous walk from Fort Point literally all the way into Aquatic Park in San Francisco, and it's one of the great promenades. My wife and I walk that regularly. She walks it more regularly than I, like three or four times a week during certain seasons. There are literally hundreds of people who are making that walk, and we opened that up.

Then there was the whole matter of the 20,000 acres that San Francisco had on the Peninsula. These are the watershed properties, the Spring Valley properties. There were those who clamored that we should develop those. When Reagan's Freeway Commission made the determination that they were going to build the freeway right by those lakes, by Crystal Lakes, we went back to President Johnson and got him to block it. In return for that, we dedicated the 20,000 acres to perpetuity for open space and recreation. I don't know of 20,000 acres more beautiful than those this close to a big, metropolitan area with a community of six million people who live around the Bay. Beautiful thing, lakes and meadows and hills and dramatic drops on the other side to the ocean.

Then we built in San Francisco a series of so-called mini parks on the public grants, got the Department of Interior to give us a rather unusual grant for the purpose of doing that, and there are these little vest pocket parks, we used to call them. They're highly utilized in areas where there are lots of children, particularly in the Mission area. One of them started to be used by some of the down andouters, the skid row and drug traffic that resulted from that. One on 6th Street finally wound up in private hands and was closed. But the mini park program in San Francisco and the mini parks in Western Addition and the Mission area, the outer Mission area, was a program that I think was highly beneficial to San Francisco.

Hicke: What about Yerba Buena?

Alioto: Yerba Buena was interesting. The federal judge, whom I know is still living, improvidently blocked the development in Yerba Buena
at a time when we had a famous Japanese architect, Tangi, to design it.

Justin Herman and the Redevelopment Agency had a spectacular plan for the Yerba Buena, which would have been a lot cheaper than the money they're spending now on what is basically mediocrity compared to what we had. We had the great Italian designer, Nervi, and the Japanese designer, Tangi, who assisted in the urban design, and it included a series of buildings, elaborate landscaping and an arena.

They had no arena in San Francisco, which we're having trouble getting even today, so that Oakland is able to build an arena but we aren't. It was stopped on the theory that we didn't have enough low cost housing there and because of the displacement of those in the area. That was just a fake.

We were able to prove without any question that at one time literally 1,200 keys were put on the judge's desk saying to him that there was going to be no displacement, that there was adequate relocation just on the other side of Market Street, north of Market Street. He persisted in that, and so a very great project was frustrated by judicial interference that was, in my opinion, completely unwarranted. Those things happened. Now we have something down there that's an absolute mediocrity compared to what we had planned.

It was a cause. We were displacing the poor, displacing the down and outers. It wasn't true. They just had to cross Market Street and they had plenty of room. We actually designated the rooms which they could move into which were cheaper. But the whole campaign was pitched on the idea that if you were liberal and humanitarian you had to stop this project. It was a very bad thing for San Francisco. It went ahead anyway. Nobody's putting low-cost housing down there anyway. It went ahead much more expensive. As I say, in terms of what we had, it's relatively mediocre.

Hicke: Why do you think it was stopped?

Alioto: Stopped by the federal judge.

Hicke: I know, but what were the reasons?

Alioto: His reasons were that he wanted to put low-cost housing in the area, which was inappropriate. It was none of his business. He wanted more low-cost housing in the area. We had already put a good deal of senior citizen housing in the area, and our notions on low-cost housing were to scatter it around town, and we did.
Public housing is relatively scattered in San Francisco and not concentrated in particular areas, because when you concentrate it in particular areas, particularly in highrise buildings like in that Ingleside thing, you know, where a building became a crime-ridden area in San Francisco, where the black residents in the area weren't safe, were being preyed upon, were the victims of crimes.

The judge interfered in what was basically a municipal project. We had a heated argument over the thing.

Hicke: I thought maybe there was other opposition and that was just a rationality.

Alioto: No. The opposition took on a humanitarian aspect against the development here, which was baloney. The south of Market development and all of our redevelopment projects involved a lot of labor. We had minority contractors, and the building trades had minority programs and minority apprentice programs. Much cheaper than we're spending right now, a lot cheaper and a lot better, too. But that was stopped. That was one of those things.

Another thing that was stopped was the U.S. Steel Tower. That was stopped on the waterfront. And that was stopped because you had to get the permission of the Bay Conservation community. In the case of TransAmerica building, as I told you earlier, I exerted some influence in getting the majority vote from that planning commission. I never bothered them up to that time or since that time.

But we had a very sleek, beautiful, steel U.S. Steel Tower of fifty floors. It was a sleek thing. And below it was a huge underwater garage, as a matter of fact. And they were to build a passenger terminal, a luxurious passenger terminal for passenger ships because what we have today is terrible. And we would have had all of that done.

I recall Ms. Feinstein, Roger Boas, and Roger Mendelsohn using Bay Area Conservation Committee and were able to block it. Within six months or a year later they permit the Southern Pacific to build those towers down there 100 feet away from where we were talking about, instead of that beautiful, sleek architecturally, U.S. Steel building and a beautiful, luxurious passenger terminal for cruise ships.

And the other part of it was, I had always wanted a--I don't know whether you're familiar with the Galleria in Milano. In San Francisco we have a lot of sunny days when it might be a little cool or a little breezy. We had a 400-foot galleria built on the
pier adjoining where the Ferry Building is right now as part of that project.

That was killed, not because we controlled it, but because BCDC [Bay Conservation and Development Commission] controlled it. And there was an anti-highrise sentiment, which then within a short period of time permitted the SP Towers 100 feet away. And there's no difference today when you're talking about the waterfront from putting a highrise 100 feet away or putting it on the waterfront adjoining the Ferry Building, for example. Those slum piers have existed down there.

So those were the things that were disappointments that would, I think, have been great things for San Francisco. But those were beyond our control. Wherever we controlled the situation, as in TransAmerica and Embarcadero Center, we got it through. Sometimes we had to bull it through but we did it. And everybody now agrees looking at it in perspective that the TransAmerica building has become the logo of San Francisco throughout the country.

There were other interesting features of my term as mayor. We organized a mayor's traveling vaudeville unit, consisting of myself, Mayor Daley, Mayor Lindsey, Mayor Delisandro (Nancy Pelosi's father and then brother from Baltimore), the black mayor of Cleveland, Carl Stokes. We'd make congressional appearances and appearances in various cities fighting for block grants. In other words, the federal government should give us our money and let us spend it the way we thought best to meet the urban problems that we had to meet, and not have something that was designed out of Washington based on pork-barrel trades and reciprocal arrangements.

We finally got that through in the Nixon administration, just because John Lindsey had been a member of that group that really publicized it. The mayor of New Orleans was another member of that group who was very, very active.

Hicke: That must have been an effective way--

Alioto: We got attention. In other words, that combination of personalities got attention no matter where we went. We did these one-night, vaudeville stands or one-day vaudeville stands in various areas of the country, and we finally got that block grant deal.

We used that same team to get a lot of effective legislation to help the cities. And it did. We did a pretty good job in terms of doing it that way rather than acting independently or
acting through formal groups. I always took the view that you had to have personalities to get attention. Daley and Lindsey were the type that got attention and were able to make an exposition in terms of the management of cities that had validity to it because of their performances.

Hicke: And also that of Mr. Alioto?

Alioto: Well, you can add that if you want, but I don't know. Daley became one of my best friends. I had great admiration for him in terms of his ability to manage cities and to manage the difficult problems that plagued the major cities at that time. I always had a close, personal, friendly relationship with him.

He used to have a habit of calling on Sunday morning, calling his friends. "I've got nothing to talk about. I just want to chat. How are you doing?" We would just literally gossip and whatever else we had was reserved. Anytime Daley sent us a man and said this man has quality, I'd go out of my way to get him a job.

One of those was Dean Macris, who's the present planner, and whom I first appointed to the Planning Commission. He's become controversial in many areas. But he's an able man. He came out of the Daley organization, had a recommendation from Daley for him and so we gave him a job, put him to work out here.

We had another situation that was a little different. The present representative from Massachusetts from the Boston area that took Tip O'Neill's place of course is Joe Kennedy, the son of Bobby Kennedy.

He had had some problems as a young man. He was a fatherless young man. His father was assassinated in 1968 in California, as everybody recalls. I talked to Ted, and Ted said something about, "Is there some social work he could do that would be helpful in the city?"

So I gave him a position in the medical group in the Mission District, because the Kennedys had always had a great rapport with the Latino community. Because of his prominence, some Latinos, a couple of hustlers, as far as I'm concerned, I'm thinking about one in particular, started to scream that the rich Mr. Kennedy was taking away their jobs and created a big furor.

And the kid was nineteen at the time or twenty or whatever it was and was out here all alone. His father had been killed. His mother had eleven children, as you'll recall. I wouldn't let the press talk to him. They would just cut him up into ribbons.
I wouldn't let the press talk to him. There was a big clamor about that rich man is taking over.

My notion was the Kennedys had great credentials with the Latino community and that he would be influential in helping us in many ways. And he was able. He did his job right. Nobody argued about his qualifications or his competence, because that was always the number one consideration.

Nobody who wasn't qualified got appointed to anything. You had to be qualified. As I told people once, I had a simple method of handling that matter. They had to be qualified. I first looked at qualified friends. If we couldn't find one to fill a position or a commission opening, we then looked to qualified neutrals, and if we couldn't find one to fill a position or commission, we then looked to qualified enemies. But the circle of my friends was so wide and their talents so obvious that I never got beyond that first category.

There was one rather widely quoted event that I may or may not have mentioned in prior interviews when, after the election in which Dianne Feinstein ran against me and came in third, a group of NOW women came into my office demanding to be appointed as concerned citizens for this or concerned citizens for that.

I reminded them, "Weren't you women all opposed to me in the recent election?" And they said, "Yes, we were, but we are making these demands. We are citizens. We are concerned citizens and we want this, that, and the other things." And I told them at the time, a remark that has been widely quoted ever since, actually, I told them that they don't redeem losers' tickets at winners' windows at the race tracks. "And we don't do it here either." They got very angry and said, "Well, we're going to go out and get you." I said, "I'm going to beat you in your own territory."

I can't judge whether my administration was good or bad for San Francisco. That's a matter for third parties to judge and basically it's an historical judgment. But San Francisco was in those days and remains as far as I'm concerned the city with the best quality of life of any major city in this country.

And, of course, I was very active in connection with the preservation of our cultural traditions. I was brought up that way. We made the first public grants to the symphony, the opera: $500,000 apiece. Every time Kurt Adler was in trouble with the opera we'd come over there and we'd make arrangements to have street operas and Brown Bag Operas. I would support that from a fund. And they were great. They were wonderful things--his Dollar Opera, which at that time I think got to be two dollars.
Then there came a time when I was just out of office and a group of friends of mine, well intentioned, no doubt, went out and raised $15,000, which was a lot of money at that time, to have a bust of me made for the City Hall. I persuaded them after a while that instead of having a bust of me in the City Hall, where anybody was free to come on in, crack an egg over my head or otherwise vent their spleen for things that they didn't like me about, I said, "Give me permission to give this to Kurt Adler in connection with promoting even more Brown Bag Opera." And they did. So I gave it to the opera.

At the same time when my friends did this, George Christopher's friends rushed and got their $15,000 or $20,000 and actually put a bust of George Christopher in City Hall. He was a man who really deserves it. George Christopher was a good mayor, a very good mayor of San Francisco. I have maintained a friendship with him over the years.

Asian Art Museum

Alioto: Of course I think the greatest single achievement in terms of the arts and cultures was the acquisition of the Asian Art collection. I took a relatively simple position at that time. I wanted San Francisco to be preeminent, not just an also-ran in what it was doing. It was impossible to compete on European art. The inflation that had taken place on European art made it impossible to compete there. And we were always going to be behind the Metropolitan Museum. Later on when the Getty Trust compelled the trustees to spend $100 million a year or more now whether they liked it or not for the Getty Museum, it was apparent that nobody was going to be able to compete on European art.

I felt the same way about modern art, that we weren't going to be able to compete against New York or the European galleries. But with the Brundage collection we could have the best, the very best Asian Art Museum in the world outside of Asia itself. And we have it. I got that collection in negotiations with Brundage.

He had given a part of his collection, the first part, in the George Christopher administration, due to the efforts of Mayor Christopher. Then he got into a fight with the Chronicle crowd, as he called them, the de Young Museum trustees, who had a self-perpetuating commission where they appointed their successors, the only one like that, not appointed by the mayor. It's kind of a self-perpetuating commission. And I think that ought to be
changed. It's the only one in the city like that. I haven't checked on it, whether it ever has. But it ought to be changed.

The de Young Museum was very jealous of its prerogatives and insisted on controlling the Asian Art Museum. Brundage wouldn't have it. He said, "You breach the contract and I'm going to take away the first part of the collection. I'm going to give the whole collection, including the second part," which was much more valuable, "to Chicago or Los Angeles." Those two places were competing for it until a committee was formed: Gwin Follis, president of Standard Oil, Ransome Cook of American Trust, and a woman who was then named Marjorie Schlessinger, Jane Pettit, and Margaret Stern. We put up a great fight for the Asian Art Museum.

We went back and saw Mr. Brundage. I was amused. The first day I walked into his office in the hotel he had built, the Lincoln Hotel I think it was, he had a great big sign on his desk facing me, facing the chair, like the chair you're sitting in. "From the City of Los Angeles"--very elaborate, done in Medieval script and colored and glossed. It names Avery Brundage the Man of the Century, a man who was great in four areas. A great Olympic athlete, decathlon athlete, a builder of big real estate--a tycoon; head of the Olympic Committee and a man who had advanced the interests of the Olympic Committee, and also now a great collector of Asian art and we honor, acclaim Avery Brundage.

So I looked at the thing. He was very dignified. He wanted to be called Mr. Brundage. I said, "Avery, I've seen this thing. If you put it up for my benefit, you can take it away." He was brusque enough to kind of appreciate that kind of an approach. I said, "You know very well, granted the cultural traditions, particularly in connection with the Asian background of San Francisco and Los Angeles, that you aren't going to send your collection to L.A."

What I was really worried about was Mayor Daley in Chicago. Remember he has that great sculpture of [Marc] Chagall in City Hall Square in Chicago. Anyway, we finally wound up getting it, got the acquisition. And then two men, Fritz Jewett and Jim Gersle, were the two that really implemented the program and raised the money to do everything we've done in Asian art to have the very best in the world. Those two men need special praise along with Gwin Follis, Ransome Cook, Marjorie Schlessinger, who is now remarried, but then she was Marjorie Schlessinger.

Now Mayor Agnos has given the public library to the Asian Art Museum. They're going to be moving to the public library once our new library is built. Again, Mayor Agnos has put that
together in getting that bond issue through by more than a two-thirds vote.

Hicke: So they'll be able to display a lot more of their collection.

Alioto: Two-thirds of the Asian Art exhibit, we have so much of it, two-thirds of it is in a vault down below, not on display. And so this is going to be the final thing for it. Brundage sent me a telegram once. I forget the reason. Brundage said—I'm very proud of this and I'm willing to state this—"But for you, San Francisco would not have had the Asian Art collection." I've always been proud of that.

That's an accomplishment. You see, Asian art with our opera, ballet, and symphony. These are not just elitist things. Everybody appreciates museums. The lonely people appreciate museums. We've had to put some charges on, but there are enough free things. Museums, libraries, and opera associations, symphonies and ballets add an element to life. If you look at the derivation of the word urbanity, urban, urbanity comes from that.

I've always taken the view that the great cultural advances in the world have come out of troubled cities. You can have rhapsodies and poetry about natural wonders, but the plumb fact of the matter is that troubled cities with problems and problems of poverty, cities like Cairo and Jerusalem and Athens, Rome, Florence, Venice, Paris, London, New York, and San Francisco—it's out of troubled cities that most of our culture has been born, where most of our culture has been created.

When you think of Renaissance Florence, that was a very violent city. Only 80,000 people lived in Florence. But it's the most civilized city in the whole world in terms of what is there. And they were troubled cities.

San Francisco Opera

Hicke: Let me just interrupt with a question that I've done a little research on and I'd be interested to know your opinion on, which is: why did one of the world's best operas develop in San Francisco? Do you have an answer for that?

Alioto: I have a chauvinistic opinion as to why it developed in San Francisco. There were a couple of Italians, one named Gaitano Merola, Neapolitan Italian, another one named Fortuno Gallo, who pioneered opera in San Francisco.
We had had, as an exhibition city, remember Caruso came here and was performing in Carmen as Don Jose the night before the earthquake, and because of the earthquake, never came back to San Francisco and said so. What people don't realize, Caruso was a pretty good artist, sketcher. He went and took a post up on Telegraph Hill and sketched the ruins of San Francisco when San Francisco was on fire. Those drawings are very interesting.

We had had the tradition of Tetrazini singing in Union Square on Christmas Eve. We'd had that tradition, but the people who put the opera together were Gaetano Merola for the big opera and Fortuno Gallo for what the Italians call "prezzi populari," the popular-priced opera. Merola was a great creative man. He had a great sense.

Side by side we had a great musical tradition as well. It's not generally known that the three best American violinists were all from San Francisco, as I told you earlier: Isaac Stern, Yehudi Menuhin, and then Ruggiero Ricci. It's not generally known.

Hicke: I also came up with the theory that because there were so many Italians here, particularly North Italians, who had a long tradition of opera, they supported opera. Is that the case?

Alioto: There is no doubt that they supported it, but Gaetano Merola promoted it to the point where they wanted to support it, and Fortuno Gallo gave them the popular-priced operas, which were later taken over by an interesting personality who had the Pacific Opera Company.

Gaitano Merola needs the basic credit for giving San Francisco that kind of stature. The Italians supported it, and then of course, the Jewish community has always been an avid supporter of culture and musical events. They too became very active with our opera. Then, Gaitano Merola had a great successor in Kurt Adler. I worked very closely with Kurt Adler in many areas of financing opera and bringing opera to the streets, and Brown Bag Opera. I'm very proud of those things that were done.

I think we achieved preeminence because of that background. Except for New York, unquestionably we're at the top level. Chicago is a poor third, and some of the southern cities are now putting a lot of money into opera. But, San Francisco, we've got to maintain that opera at its highest level. I think we have a very fine director right now. I wasn't that fond of our prior director, Terry McCuen. I think that [Lofti] Mansouri is a very fine director of the opera in the Adler tradition. He worked with Adler, as you know, and it's just wonderful. I'm very proud of our opera. If there is a jewel in the crown of culture in San
Francisco, the brightest jewels are the opera and the Asian Art gallery. In an ultimate analysis, the Asian Art gallery, as you go down, will predominate; just as Florence and Rome have great musical traditions, nevertheless, it's the museums which survived.

Alioto: My voice sounds a bit hoarse today. We had our St. Joseph's festival last night [March 19]. It was great. Among other things, Gordon Getty sang a solo version of "La Vie En Rose," the lyrics of which were written by Edith Piaf, as you know. That was one of my chestnuts, as the program indicates. They sang "O Mio Bambino Caro," with the opera, the soprano, and we had a lot of singing and that's the reason for the hoarse voice.

What I was saying is that the two brightest jewels in the crown of San Francisco's culture are the opera and the Asian Art Museum, and ultimately the Asian Art Museum which through growth and advancement and enhancement is going to perhaps take the number one spot. Our symphony; we have a very, very good symphony but there are a lot of other major cities with very good symphonies too. Cleveland, Chicago, New York are the obvious ones, but all of the major cities now are getting good symphonies. We're not preeminent there yet [1991]. We're very, very good but not preeminent. Ballet: we are beginning to rival New York in the second position on ballet, and that's going to be enhancing. There again is Lucy Jewett, whose husband, Fritz Jewett, put together with Jim Gersle the implementation of the programs for the Asian Art Museum.

I just thought that the stressing of culture in my administration was important. There were those who used to, a couple of half based politicians, you know, who'd say, "Mr. Alioto likes opera music but I like country music." That says more about you than it says about the music. Then, we had great jazz festivals as well, of course, and encouraged the theaters and encouraged the making of pictures in San Francisco. Those are the things that we spent our time on and in between, the business of cities is security, keep down crime. We fought hard in that area.

School Busing

Hicke: Let me ask you about busing. Was that a problem?

Alioto: That became an issue. That's a good question, because there are some interesting answers, and I don't think they've been recorded
much in various places. I have always looked on busing as counterproductive. People have forgotten that the problem in Brown v. Board of Education, the landmark 1954 case on eliminating the old concept of separate but equal facilities for blacks and whites, they have forgotten that the big complaint in that thing was that they were busing the black kids out of their neighborhoods to distant schools. The whole opinion goes on at great length about the educational disadvantages of busing kids away from their neighborhood schools.

Where there was an official policy of segregation, of course, busing was necessary, but it should be temporary. My wife was a member of the Board of Education for Boston at the time of their big busing controversy. Everybody who looks at what busing has done to this country has to observe that busing in America has resulted in a greater concentration of the races, particularly the black races in certain schools. It just has, because there's been an exodus to private schools, an exodus to parochial schools, an exodus to the suburban schools whether we liked it or not. I just never thought busing worked. In San Francisco particularly.

The districts in San Francisco were set up so that all you had to do in many cases was just to rearrange the lines and you would get integration. Let me give you an example. Pacific Heights is side by side with the Western Addition. The lines for the schools in Pacific Heights, in other words the high-rent district and what was supposed to be a ghetto but really wasn't, the lines for division of the schools ran east and west, which meant that Pacific Heights was on one side and the Western Addition was on the other side.

Hicke: Split the two--

Alioto: All you had to do was to turn that damn line around and run it north and south, and then you would have integrated communities and integrated schools. So, I advocated this. Busing became a symbol. People knew that busing wouldn't work. Busing became a symbol. The struggle with busing in San Francisco came in the Chinese community, not in any white community or black community. It came from the Chinese community. The Chinese took the view that they wanted to preserve their culture and they didn't want their kids going to school with either the black kids or the white kids.

I don't know whether you remember or whether you looked up the history of it, but they set up freedom schools, so called. I frankly agreed with them, that there was a point in their preserving their culture, the Chinese culture, because the Chinese have been persecuted historically in San Francisco. Even as
urbane and educated a mayor as Mayor [James] Phelen was, at the turn of the century, a highly educated man who gave us the great cultural center, Montalvo, down in the Saratoga area. He's back to Congress talking about these savages, people who don't live as we live, who lack our traditions of culture. It's all baloney. The Chinese have a much older tradition of culture than the Europeans have, not better. I'm partial to the fact that the European culture in the final analysis has produced more of the best that has been thought, written, and done in the world.

Nevertheless, it was a great culture and I was sympathetic to their view. Then, Judge Stanley Weigel, again, the man who gave us the trouble, comes out with a busing order. The Chinese told them that they weren't going to obey it. They set up their own schools, and there was a great deal of fuss about it. I was sympathetic to the Chinese.

Then, we used what the Commies call tactics instead of opposition. There was an exemption for students that had difficulty with buses. Some kids throw up when they ride in any automobile. There was an exemption on that, and there were a lot of exemptions handed out to the Chinese, which I encouraged. People who got sick in buses, riding around in buses. The result was that the Commodore Stockton School in Chinatown remained largely a Chinese school, and then they closed down their freedom schools, which they couldn't maintain. They were prepared to maintain them as private schools. I think San Francisco benefits from a multi-culture. I don't believe in homogenization of cultures.

I think the Italians have a distinct culture. The French have. The British have. The Afro-Americans have a distinctive culture. Various parts of this country have distinctive cultures. I don't think we should homogenize our cultures. The Scandinavians have a distinctive culture. We should all maintain those distinctive cultures and share them with each other. There's an overriding, at least in one part of the world, something that can legitimately be labeled "the European Tradition of Culture." It literally extends from the Atlantic to the Urals.

I was not sympathetic to busing. It wasn't necessary in San Francisco. Judge Stanley Weigel tried to enforce it. The result was not good. It didn't achieve it. It didn't achieve the integration that it wanted to achieve. The magnet schools later on did achieve that.

There was another element there. I insisted on building schools, first-rate schools in the ghetto areas. One at Hunter's Point. Some of those parents out there were absolutely outraged
when busing came along. They were going to take these black kids and bring them over the hill somewhere to an old school and they were going to bring a bunch of white kids into this new school, and the blacks were all screaming to me about it. They said, "What kind of a con game is this? You build this beautiful school. You tell us you're doing a great job building this beautiful school, and the first thing you do, you take the kids on the bus and bring them over the hill somewhere." I remember this crazy, not crazy, very interesting, dramatic, black woman standing up. She said, "Mr. Mayor, I want to see my kids skip to school when I look out the window and skip back when I look out the window, too. I don't want them bused over the hill too--."

In any event, busing was one of those things. It was a symbol that some of the liberals had to adopt but it was not necessary in San Francisco. It didn't do that much harm, because it was ameliorated in the case of the Chinese and somewhat ameliorated by other exemptions. I've always maintained the principal beneficiaries of the busing, forced busing, compulsory busing in America were the private schools, the parochial schools, and the General Motors Company. Those were the three principal beneficiaries of those programs.

Of course, the scandals that we've had in this country over contracts for busing are well known but that, I guess, is not important in terms of the integration, which is important. Integration is important in education. The opportunity to go. I advocated a program in 1975 that we're still going to come to one day. The professionals were against me on it so it didn't get very far. I advocated making every school in the city an autonomous school, like the private schools. In other words, a school like Burke runs itself. A school like Town runs itself.

Hicke: You mean with no school board?

Alioto: In the parochial schools, the parishes run each individual school. They have some measure of control. My notion was to let the schools run themselves like separate units: elect their own principals and elect their own teachers. Then they compete against each other, and anybody in town is free to go to any school he wants to. One day we're going to come to that. The professionals will fight us all the way down the line, the teachers association and others, particularly the central office administrators. Eventually, we're going to come to that in one form or another.

I am not a great advocate of the voucher system in education, but the voucher system is an approach toward that type of thing. If we could get that concept in and promulgate it in
America—it's my own idea. I tried it in 1975, and there are newspaper articles you could find in 1975 something about Alioto proposal gets mixed reaction. The mixed reaction was all from professionals who didn't like the idea of competing, in effect.

It's like the private schools. People compete today—let's take the so-called ritzy schools. Do I send my daughter to Burke's or do I send my daughter to Hamlin? The excellence and the competitive struggle between those two schools means a lot, and parents are going to make the judgment about what's best, just as in the antitrust laws.

I applied the antitrust principles to this concept when I did it. In other words, let them all compete for the favor of the customer. In that competition, we're going to get the best services, the best quality, and the lowest prices. This was my idea. I was literally applying that antitrust principle to it.

I still believe that. We would have so many individual laboratories. I don't know, for example, why that shouldn't be tried in just one laboratory, say the city of San Francisco, and see what happens. Try it for a period of ten years and then the other cities can adopt it if it works.

Cultural Traditions and Diversity

Alioto: So, those are a few things. I broke a couple of tradition as mayor. I may have mentioned some of them. The chief of police, you know, as I told you before, not only had to be Irish, they had to be born in Ireland. That was a tradition in San Francisco, followed all the way right through to Cahill. Cahill was born in Ireland and then went to Chicago and then went back to Ireland for a while but was thoroughly Americanized. And I appointed [Al] Nelder, who was German. I still kept the tradition, an old line tradition in San Francisco: chief of police had to be Catholic—people forget these things—and the captain of inspectors had to be a Mason. He had to be Masonic.

In truth, this balance was maintained for a long time, and I broke that down. I appointed Nelder, who was a German Catholic, and then right after him, Don Scott, who was not Irish and who is not Catholic, and that has been the tradition. There's no longer a tradition. There was a time in this town when the chief of police was named by the publisher of the Examiner. I'm trying to think of his name right now. I'll think of it in a minute. We broke that tradition.
Hicke: How do these traditions get going?

Alioto: It's a matter of an evolutionary route like a kind of Darwinian evolution. They get started in the old days. There were conflicts between Catholics and Masons in the educational area. They compromise their values. They take this. We take that. That kind of business.

As I told you earlier, too, the Board of Education was appointed by the mayor. I finally sponsored the elected school board, because I didn't like some of the things that were being done by some of the appointees. My appointees reneged on their promises as to what they were going to do. I wouldn't try to control them but they shouldn't lie about it either. They shouldn't make a false representation to induce an appointment and then reverse themselves.

The tradition originally was, and I told you this already, there had to be two women, two down towners, two Masons, two Catholics among a group of seven, and a labor leader. Sometimes the labor leader was also a Catholic. That took care of it. So, there was this overlapping. Sometimes the woman was a downtowner, not very often. This was the way it had to be done. I broke that tradition. We weren't going to do that any more.

I was more interested in the community. I named blacks and Chinese to the Board of Education for the first time. I named blacks and Chinese and Hispanics to the Board of Supervisors and the Board of Education. That's pretty much the story of being mayor of San Francisco.

I don't think too many cities in this country are worth being mayor of, but New York, Chicago, and San Francisco are exceptions. I think that those cities have an element of the old Italian, city-state within New York, Chicago, and San Francisco.

We've been accused of exporting hippies to the world. I told you about that statement from the chief of police of Paris, who was more like the mayor of Paris. He said, "You've exported all your hippies of San Francisco," San Francisco was notorious for hippies, "you've exported all of your hippies of San Francisco to Paris."

I said, "You should take heart on that, because they have excellent taste. They only pick the best spots. The best spot between Buena Vista and Golden Gate Park is the Haight Ashbury in San Francisco. The Promenade in Copenhagen. The Damm in Amsterdam and the Left Bank in Paris; so you should take heart."
They have great taste. And, great pocketbooks. They get that weekly and monthly check from the folks in the Midwest somewhere."

The kids are simply running away from what they perceive to be a humdrum life to a life that was a little more dramatic. Life can be dramatic also within the confines of being traditional and respecting certain traditional values.

Hicke: You've talked a lot about the cultural groups in San Francisco. I assume that's a very important factor in all these political decisions.

Alioto: There's no question about it. We encouraged the neighborhood arts like they had never been encouraged before this time. That was their connection with the grants from our hotel fund, which was administered by Mr. Mellon. But he listened to me a good deal on those things, even though he had the ultimate say on them under the city charter. The chief administrative officer has the final say on the distribution of the hotel tax and many other things. We worked together.

San Francisco, if you look at the charter, has a weak form of mayoral government, because they divide the responsibility with the city administrative office. But, by extent of personality or drive or otherwise or whatever you want to call it, the mayor can be a powerful mayor, despite the restrictions of the charter, by working with people, among other things.

We gave huge amounts of money to ACT. ACT is the American Conservatory Theater. Cyril Magnin used to come in to see me literally once a month. "We're going to close up tomorrow. ACT is all through tomorrow unless we have $75,000 by five o'clock tomorrow." So, I would go next door and say, "Tom [Mellon], you've got to do this. This is a good thing. It will grow. It will sustain itself. It needs its seed money, basically." And Tom would give it to me. We saved the outfit about five times while I was mayor.

Then Kurt [Adler] would come over, "We need a little money to put up the children's opera." That was another thing. So, I had a fund for that and if I didn't have it, I'd get it from Tom Mellon.

We encouraged the neighborhood arts groups but it was more important not to just have little elements around town, because a lot of that stuff sprung up naturally, but to get them involved. Get the talents of little girls in the black community into the ballet, the talents of little girls into the opera chorus so there
could be a step up. We did a lot of that. We had street operas out in Hunter's Point. Nobody had done that.

Other people had had brown bag opera but nobody had done street opera that I know of. We had street opera out in Hunter's Point and in the Western Addition. Those things, by osmosis or otherwise, get into your system.

Hicke: The Exploratorium, was that--

Alioto: The Exploratorium, have I already told you about that?

Hicke: No, you haven't.

Alioto: I haven't said anything about that?

Hicke: No.

Alioto: The nuts around town, or what we called the nuthouse brigade around town, wanted to convert the Palace of Fine Arts into tennis courts. Over my dead body. When they came to me, I thought, first of all, I once talked to Yehudi Menuhin, who had the greatest school of violin outside of London, and said, "You know, you really ought to consider, in view of your San Francisco background, a Western School of Violin in the Palace of Fine Arts. I don't know a more dramatic setting for a musical conservatory than the Palace of Fine Arts." Well, he couldn't do that for whatever reason.

Then, I persuaded Walter Johnson that we were going to build a theater in there. We needed more performing arts space in San Francisco, a thousand-seat theater with rocking chair loges. I represented a lot of the motion picture exhibitors, so we knew about rocking chair loges and continental seating and all of that business.

So, the city put up half the money and Walter Johnson put up half the money and we built that theater, mainly for the film festival but in addition to the film festival, for a lot of other performances. It would be interesting for you to get how many performances a year they have there. It's a great, great number.

Hicke: I know. Dollar Opera for one thing.

Alioto: A great number. A lot of other things, too.

Hicke: Oh, I know.
Alioto: We even ran a Teilhard de Chardin conference, a three-day conference, brought the Chardin authorities from all over the world here. We ran that in that particular theater and we had the rocking chair loges, continental seating--big space between the seats, that means--and 1,000 seats. We needed a 1,000-seat house. Of course, I think I've already told you, or maybe I haven't, that I took the interest money from the block grants we got from Congress to make the first $5 million contribution to the Louise Davies Symphony Hall.

Hicke: You didn't tell me that.

Alioto: And I got a big beef from the Board of Supervisors. Got blasted by Feinstein and Boas and Mendelson for putting that money in. But the biggest contribution which began Symphony Hall, without which it wouldn't have been started. Then we got Louise Davies to put in another $5 million in, and then they were on their way. The rest they were able to get on their great financing drive put together by Sam Stewart of the Bank of America.

But [Richard] Hongisto was vicious in his attacks on me for that $5 million. He was then sheriff of San Francisco. I had given him his start in political life in San Francisco by making him a trouble shooter in the Haight Ashbury. But he was vicious--$5 million spent for an elitist thing. We could spend it for rehabilitating prisoners in the county jail.

I had a strong view on the fact that the average stay in a county jail was thirty days--maybe somebody might stay ninety days--and the idea that you're going to rehabilitate anybody in thirty days is a warm hope. It's not a realistic appraisal of the real situation. I was viciously attacked by Hongisto.

I finally had the pleasure of seeing him. I saw him in Symphony Hall. I said, "What are you doing here, Dick?" Then I had the pleasure of telling him straight to his face, I said, "You know, if you ask for that $5 million or part of it to rehabilitate prisoners, I wouldn't go for it. If you had asked me for part of that $5 million to rehabilitate yourself, I might have gone for that. In other words, you made the wrong request on rehabilitation."

But that's the story of the cultural life. It's important that San Francisco maintain its preeminence as the cultural spot in the nation, second only to New York. We need a couple of things. We need some decent playhouses in San Francisco. If they would give Walter Shorenstein his head on it, we'd have decent playhouses in San Francisco. He has since acquired the Orpheum,
the Golden Gate [Theater], and the lease from the Lurie Company on the Curran [Theater].

There ought to be some real effort by the mayor to clean up those areas, particularly the Golden Gate, where the Golden Gate is located. The mayor is making those efforts but he's being impeded by budget. He has talked about making those efforts impeded by budget considerations. To a lesser extent, that's true of the Orpheum, which is right on the BART line. It's an old-time theater in San Francisco.

The life of the city is necessarily wrapped up in the life of culture, and nobody should make excuses for culture either in terms of it being elitist. Whether sometimes ignored, there are tremendous economic values involved in our cultural activities. When we built Symphony Hall, we in effect freed up the Opera [House] for a lot of new engagements. We're talking about full engagement in the Symphony Hall, full engagement at the Opera.

The third thing I did, I got Adrian Gruen and Lee Gruen to build a theater in the Veterans Auditorium. That's another 1,000-seat theater, and we even put--this is probably a mistake as I look at it now--we even put in the boxes that were built up. We had an architect named Vince Rainey who was the architect for the Suzy Theaters, with whom I did a lot of business before I was mayor and after I was mayor. We got Vince to build an entirely new theater. That space was being used once a year for a dance, a navy dance or something, and they said we couldn't have a theater there because of the sloping thing.

You can always have the navy dance somewhere else, so let's build a theater. Then, someday, I hope there's room to extend the stage of that 1,000-seater all the way back to Franklin Street, which will give us a place where you can handle great big productions. Right now it's great for little opera, to put in the Dollar Opera productions, for lectures, for musical groups, for chamber music. Something we used to have: a little symphony that we don't have now because it's dispersed pretty much around the Bay Area.

That's the story on culture in San Francisco. It's important. It's a very practical thing. It's a good thing for economics. When you can have, say, an additional hundred performances in the Opera House, let alone the other thing, or additional hundred days with a capacity of 3,000. If you're talking about 300,000 people in motion, that means a lot for hotels and for taxi drivers and for retailers and for restaurants.
There was a study made actually after I left. It was obvious to me, but I didn't have a study on it. It was a study made by the state, which showed the dollar value of having a performance in your town. It's a little bit like having the Super Bowl in your town or having the 49ers in your town or having the Giants in your town. There is a tremendous dollar value to those performances at the opera, symphony, and ballet.

Lucy Jewett was very active with the ballet, as I mentioned earlier. I remember one great controversy between her and Prentice Cobb Hale. Prentice Cobb Hale was the dean of the opera board directors, and Lucy wanted more ballet dates for practice. More ballet dates conflicted with the practice, the rehearsals of the opera. They were denying these ballet dates. I said, "Look, why can't you have your rehearsals across the street?" This was all done what they call 'mezzo voce' anyway, nobody rehearses. "Why can't you have your rehearsals there and give them all these dates?" Well, we hemmed and hawed and it got to be a very critical and emotional problem, but we finally got more ballet dates.

Then, when we built Symphony Hall, why that opened it up a good deal more. So, we have a great cultural life in San Francisco and I think that during our administration, all of those things, the building of Symphony Hall, the building of the Herbst Auditorium, the building of the--Adrian Gruen was the only son of the mother in that Herbst family. There were seven brothers who were bachelors, remained bachelors, and the mother married a man named Gruen, Adrian Gruen. I also got him to make the first big initial contribution to the Asian Art collection.

One afternoon, Brundage was demanding that we have $250,000 to put up rather immediately. We finally got Adrian to put up much more than that. The money was advanced by Gersle and Jewett signing private notes. There was a lot of maneuvering to get all of these things together, but now we have a great complex of performing arts theaters in San Francisco, and I wish we just had a good legitimate theater for the Broadway plays and for operettas and musicals. That'll come next. We had one planned for the Yerba Buena--

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Hicke: You were just talking about the theater.

Alioto: Yes, we had a theater planned for the Yerba Buena in the original plans that were frustrated by Judge Weigel in what I think was an improvident decision.
VI POST MAYORAL LAW PRACTICE

Capp Case

Hicke: Meanwhile, while you were still mayor you had a few legal cases?

Alioto: No. What I did, here was my program. First of all, I took on a couple of legal cases for the city. I argued in Supreme Court on requiring, we had 66.4 or .5 percent of the vote in Hunter's Point for a school in Hunter's Point. It just missed by one tenth of 1 percent. They required a two-thirds vote. So, we argued in the Supreme Court. I've already told you about this. I made that argument in the Supreme Court that that violated the one man, one vote rule. Some guy who's my neighbor voted "No," his vote counted for twice. When I voted "Yes" my vote only counted for one.

However, that was finally rejected by the Supreme Court of the United States before our case was settled. I argued that case, and then with my law office I took the appellate arguments, which were set arguments for one hour. I took two or three of those. Then, I did some lecturing, both in New York and Chicago on the antitrust laws while I was mayor, just as a way of keeping myself au courant to what was going on.

There were no trial cases, obviously. I did take a couple of key depositions in one case and testified before Congress in another case, on the beef case. That was done privately, but they were set times. I couldn't take a trial, obviously. Then, immediately on getting out of the mayor's office, I got the Capp case within a month and tried it within two months. So, I was back in full swing again. The sabbatical came to a fast end.

Hicke: Well, you've alluded to that several times but you really haven't told me that from beginning to end, the Capp case.
The Capp case was a very interesting case. The Radovich case, which I've already told you about, was the case that made the Capp case possible. Because without the Radovich case in 1957, the NFL would have not been subject to the antitrust laws. Now, from 1957 on, they were subject to the antitrust laws. Capp had sued on the ground that certain rules of the NFL blocked him from playing with the New England Patriots after a certain season, and he was represented by Moses Lasky as the plaintiff's lawyer. When it finally came down to a jury trial, Lasky wasn't present. He sent Chuck—what's that man's last name? Good lawyer—to try the case; Lasky didn't try it. But, they had secured some preliminary motions on summary judgments, summary adjudication, that the Roselle rule was illegal, that the draft was illegal, that the tampering rule was illegal. A couple of other things. So, the judge said that they weren't illegal per se but they were illegal as a matter of law. I never understood that distinction, but that's what Judge [William C.] Sweigert said.

So, I was hired to try the case after those rulings had been made. I tried the case on the theory for the 49ers and the Raiders. The rest of the defendants—the NFL and the other NFL teams, who were represented by Covington and Burling of Washington, and the New England Patriots—were represented by Sullivan & Cromwell in New York; I represented the Raiders and the 49ers. I developed the case strategy of saying, "All right, these rules are illegal, but we can't say anything about that."

Capp was a beneficiary of those rules, not the victim of those rules. Because the New England Patriots were not free to go after Brodie or to go after Roman Gabriel or to go after Tarkinton under the NFL rules. They had to respect those competitive situations, and even when Tarkinton's contract expired, they couldn't go after him or go after Brodie; they couldn't do it under their rules.

Because of those rules, which the judge held to be illegal, and the draft rule itself, I argued that Capp became the beneficiary of it. He was in the Canadian league. He wasn't subject to these rules so he was able to come down, and he picked up a contract for $200,000 from the Patriots, a year at a time, when Joe Namath was making $132,000, so you can see—I argued from that that he was a beneficiary of the program, not the victim of it. The jury saw it our way and acquitted the defendant, and it was the first case, actually, that the NFL had won.

They had lost about five in a row, and because they had lost five in a row, when we came out of there, Al Davis, whom I didn't know, of the Raiders, insisted that they hire me. Al only knew me from television. I think I had met him once. I shook hands with
him at a football game. I didn't know who he was, when I was
mayor. I was on television a good deal as the mayor, and he said
that we needed a local personality instead of the Washington and
New York lawyers handling this.

I practice in most states of the United States, and I've
tried cases in New York and Pennsylvania and Louisiana and Arizona
and Utah, Colorado, Washington. I've tried them all over the
country, too. Al's view was furthermore that they needed jury-
type lawyers and not judge-type lawyers, and he thought I would
fit in that category. I had never talked to him, never seen him.
He just used to watch me on television. So, we won the Capp case
and it was a significant victory for the NFL. From there, I of
course got to know Mr. Davis, and at the end of 1979, when he
started to make his move to Los Angeles after the NFL was
interfering with his negotiations with the Oakland Coliseum, I was
hired by him, and that of course turned out to be kind of historic
sports litigation.

More Historic Sports Litigation

Alioto: I think I've told you about the three trials we had. The nuances
of this now is that we filed the case in July of 1980 as a cross
complaint for the Raiders, and we tried it in the spring after the
Super Bowl. We tried it in the spring of '81. There was one
holdout on the jury. The verdict was in our favor after three
months, with one holdout, one strong holdout on the jury, who got
one woman to go along with him. He had concealed from the judge
on his interrogatory the fact that his brother was an applicant
for an NFL franchise in southern California, concealed that fact.

The judge asked, "Are any of your relatives involved in any
sports leagues or anything like that?" His answer was, "I have a
brother-in-law that sometimes follows baseball." His brother was
an applicant for an NFL franchise in the southern California area.
When he went into the jury room--we got the jury report
afterwards--the guy went in and said, "Well, whatever the NFL's
position is, that's mine." He sat in the corner.

Typically, we call them artichokes. I used that expression
and nobody understood what it meant. But old-time lawyers in San
Francisco talk about an artichoke as a holdout juror. I don't
know the origin of that. We just asked, "Is there an artichoke on
this jury?" Maybe an artichoke is something planted, but there
are a lot of other plants and things. I don't know what the
analogy is. But, we had an artichoke on that jury.
We tried the case again the next year and won. Bitterly contested litigation. I told Al Davis in the beginning, using the criteria in the Goldwyn case, that the press will come out on the first day when certain people are on, nationally known figures are on, to hear the arguments and that's all, nothing else. To my shock, that press was on the courthouse steps, national press, television, radio, printed press, every day of that trial. I was shocked by the way this thing fascinated everybody. It was kind of a morality drama in some sense, I assume. The struggle between every man, if it would be Al Davis against this whole combination of the people against monopoly power, of the entrenched monopoly power of the NFL. For whatever reason, it generated great coverage.

Then we tried the damage case and the damage case resulted in a verdict of $11 million, which after tripling would be $33 million, and then attorneys' fees would have brought it up to about $40 million. Then interest on that during the period of the appeal--.

One very interesting episode, the day the jury reported it had its verdict and was coming in, O'Melveny was trying the case for the NFL, was the chief counsel for the NFL. Pat Lynch, who was a trial lawyer, brought his senior partner in to see the judge. He said they wanted to see him on an important matter. Then they tell the judge, the senior partner, "We feel duty bound to report to you that one of the witnesses perjured himself."

This perjury took place thirteen days before and then in the conference in the courtroom, the O'Melveny lawyer inadvertently said, "I was surprised when I heard it." Which means that he knew of the perjury for thirteen days. You didn't have to be Blackstone to divine immediately that the whole purpose of this exercise was to disrupt the jury verdict, which they expected was going to be against them. That was the whole purpose of this exercise.

Later on, I'm told, when the Bar Association went after me for something that my son Joe had done when I was in the mayor's office and that was a highly publicized thing, I told them, "Hey, you want a good case?" This is all on one transcript. This was all on a transcript that I was surprised thirteen days before. Suppression of perjury, known perjury on a critical point for thirteen days by the O'Melveny & Myers lawyer. "You want a good case? That's a good one." That disciplinary staff of the Bar Association is the craziest collection of mediocrity that I've seen in my life.
In any event, as you know, when my case came up, predicated on something my son had done when I was in the mayor's office—what he had done was not wrong; he was cleared too—but when my case came up, the judge said to the Bar Association lawyer, "Now, forget everything else. What do you have against Mr. Alioto, Joseph Alioto? Put your case on first, because I don't see where you--." So they put their so-called case on and then without any defense being offered by me, he threw it out rather angrily.

Hicke: This was a big case?

Alioto: He just threw the case out. It was just a political thing and they used publicity for the first time, even though they weren't supposed to. Publicity, I wasn't even here and they acted childishly in connection with concocting this publicity. Simply going after names that they think would give them publicity. I give them this foolproof, full case of O'Melveny & Myers suppressing perjury, known perjury for thirteen days, and then using it to disrupt the jury verdict. I told the judge, "Judge, I'll take my chances. I don't want a new trial. I'll take the jury verdict." So, the jury came in and gave us the $11 million.

Hicke: Is this the price you pay for being a public figure, do you think?

Alioto: No question about it. No question about it. There is no doubt about it. I mean, here's an airtight case of serious proportion, all set out in a transcript in a federal court, I offered to give them against the fact that I should have advised my son in the mayor's office, who was then a very successful lawyer, that he was making a settlement which excluded somebody who was asked to be a plaintiff and didn't want to be a plaintiff because he didn't think my son could win the case. My son came up with a remarkable victory.

The whole thing was, the Bar Association acting that way. They'd been under pressure from the legislature to do something. The legislature wanted to take disciplinary functions away from the bar and give it over to the attorney general's office, which they should have done. That Bar Association disciplinary group was the craziest collection of mediocrity, not only mediocrity but people with bad motives. That case against me was a fake from the beginning, but it gave them a little publicity, and then when the rendering came, it was easy for the judge to say, "Why do you have Mr. Alioto here? Just give me your case against him. I've read your briefs and I don't understand why he's here." They put the case in and he threw it out.

In any event, maybe that's enough for today. How much more do you think we want to talk about? My litigation work has been
more active than it's ever been this last year. I expect it's going to continue to be that way.

When I got out of the mayor's office, within the month I had the Capp case and tried it within two months and then tried the Philadelphia Eagles case and then tried a case against United Parcel in New York, although my son finally tried the thing because it started the same day as the Philadelphia Eagles case.

We tried cases in New Orleans involving the antitrust laws. I was very active in the Koreagate investigation, the investigation of Tungston Park, their indictments issued against an international grain merchant, the world's largest exporter of rice, and we got the indictment dismissed even before the trial, they were so bad. I've represented motion picture exhibitors against the distributors over this period of time. We had cases involving the Great America theme park in which we got a $22 million recovery for our clients, who were developers who were aced out by the Marriott Company and the city of Santa Clara.

Very recently, within the last year, we have filed one case against the Kabota Company of Japan for what I regard as an illegal takeover of all of the American technology on Graphics Super Computers. That's one case that is pending in the state courts in Silicon Valley in Santa Clara County. Then we filed a case against Nintendo, which has 80 percent of the market and which used that monopoly power to try to put a small manufacturer of cassettes and games, new games, out of business.

We have recently filed a case on behalf of California Energy against Southern Cal Edison and Kidder Peabody. The plaintiff in that case produces about $200 million a year of electricity which Southern California Edison is compelled to buy under federal law, and it produces entirely from geothermal sources. I have always thought that geothermal sources, which are abundant in the West, the cheapest and cleanest way of generating electricity. So, I'm very much interested in that lawsuit from that perspective.

We have filed cases against Mercedes Benz for putting their own zone managers and little favorites with new franchises in the competitive territory of existing franchises when they had promised the franchisee, who was the fifth largest franchisee in the country in terms of volume of sales, and they had promised him if he built a Taj Mahal type of showroom that they wouldn't put anybody near him. They'd put their own zone manager in, who had access to all of our client's confidential business reports, because he was the zone manager for Mercedes Benz. That was just settled last week, incidentally.
There are always things involving the Raiders that we're very, very active in, and we are about to file the largest monetary sports case that has ever been filed. If the sports league in question, which is the NFL, doesn't do something about settling the claim in the current meeting here in Hawaii, it'll be filed within two or three weeks unless they settle the claim in Hawaii, and it'll be the biggest amount of money ever claimed, legitimately claimed, in sports litigation.

Hicke: Will you have time to do another session and tell me more about all these?

Alioto: Sure, we'll do it. You tell me when.

Il Cenocolo and North Beach

[Interview 6: March 25, 1991] ##

Hicke: We've got some cases to cover and you gave me a nice list of them last time but there's one thing I wanted to ask you about, and that is, I'm not sure if my pronunciation is correct, "Il Cenocolo," the lunch group, which is an old San Francisco luncheon group.

Alioto: "Il Cenocolo." It means "the circle" in Italian. That organization I guess was organized some time in 1926 and I recently addressed the group and raised the question of how was I better off. Was I better off to have been born in North Beach, in the atmosphere in North Beach and everything that happened in North Beach, or would I have been better off to have been born to a university professor on the Berkeley campus and brought up in that atmosphere? And I concluded that culturally, the North Beach atmosphere was far superior. This is a conclusion, of course, that Henry Adams came to in the famous Education of Henry Adams when he went to Europe and wondered how long this had been going on, when he saw what Italy had in store and France, particularly France, had in store. His famous Mont St. Michelet book, and the book on the Chartres cathedral.

Of course, it's what Willa Cather, who wrote the great stories of the Nebraska pioneers, and My Antonia and O! Pioneers, and of course the great story of Death Comes for the Archbishop says. It's the background of New Mexico, and The Professor's House had both the background of the university and New Mexico. Anyway, that was the conclusion, and my wife did, unknown to me, record that talk.
Hicke: Did she? Oh, excellent.

Alioto: So, it has some interest and I'll give it to you. Where did you hear about it?

Hicke: Well, my colleague who's also interested in the wine business told me about it. She's done a lot of San Francisco history and she thought you might be able to shed some light on this luncheon group, just its general part in San Francisco history.

Alioto: Sure. It was interesting because I did tell part of that wine story and some of it that you heard from me but I also told the story of how the seminal inventor of our time, in terms of communication, was Marconi, Gugliemo Marconi, and Marconi was a close friend of a very intellectual pastor of St. Peter and Paul's. They had gone to school together in Turn and he came in 1927 and lived for three or four days in the rectory of the Italian church that you're looking at right now in North Beach. I've told you about the dinner they had, and the wine.

Hicke: Let me ask you about this luncheon group. How did you get involved in that? What is that?

Alioto: A friend, a young man--young man! He's my age now. I knew him as a young man. The vice president of the group was a young man who went to school with me at Garfield Grammar School up on the hill of North Beach and asked me if I wouldn't do it. So, I did it for him. I shy away from speaking engagements as much as I can, because I never know whether I'm going to be in town. There have been a couple of occasions where I've accepted something six months before and then had to be in a court in New York and there was disappointment. But I did it for him. He asked me as a special favor to go over and talk to the group, so I did.

Hicke: Have you been a member of the group?

Alioto: No. I had never been a member.

Hicke: Oh. I see.

Alioto: I used to go there a good deal, but I had never been a member of that Genocolo group. It's a weekly luncheon club. They eat well. They always eat well. They love that osso buco and risotto and we had some of it that day.

Hicke: Who doesn't?

Alioto: The luncheons are at Fior d'Italia, which holds a little memory for me. My mother and father had their wedding reception at Fior
d'Italia. That was a popular place for the Italians. At that time, it was located up where Enrico's restaurant was and now it's down on the corner of Union and Stockton, across the street from Washington Square. So, these are men that I know. Judge Zirpoli was one of the past presidents, and all of the men who kind of made North Beach, and regardless of the transients, the transients who are coming in and out of North Beach at the moment, I told them that so long as there's a Cenocolo club, I guess there'd always be a North Beach. But, the talk was recorded. If you'd like a copy of that recording, I'll get it from my wife.

**Police and Fire Strike, 1975**

Hicke: That would be good. Okay. There's one thing from your period as mayor that you said you wanted to be sure and talk about that. It was the police and fire strike. We didn't cover that.

Alioto: Oh, yes. That was very interesting. It's well known that in, I think it was 1975, there was a police and fire strike in San Francisco, and it was generated because the Board of Supervisors decided arbitrarily and unilaterally to abrogate a salary formula which had been used for years, which was to take the average pay of the two highest cities over 100,000 in California and give that average pay to the policemen and firemen there and give it to our policemen. The Board of Supervisors decided after twenty-two years to abrogate this formula unilaterally, and the police went on strike. So, now we were dealing with the law. The charter provided that the mayor could declare emergencies and in effect rule by decree during an emergency, if it's a real emergency. I thought the firemen's strike was a real emergency. I had all of the redneck fanatics who insisted on firing the police. Do what Calvin Coolidge said, "There cannot be a strike against the public interest."

I had always believed in the efficacy of collective bargaining. I was acutely aware of the fact that the Board of Supervisors had unilaterally abrogated a rule which had been in effect for twenty-two years. The first thing we did, we tried to deal with it on a collective bargaining deal and then, to allay any fear that people may have had that the police weren't around, I decided to walk through the Tenderloin at two o'clock in the morning with just my chauffeur with me, who was an inspector, and nobody else. The press turned out simply to show that there wasn't any real danger despite the fact that the police were on strike. If anything had happened, I'm sure they would have come
back immediately to handle a situation. As a matter of fact, we had some plans along those lines.

Finally, we sat down and having started the strike--these guys were all amateurs on striking and they didn't know how to end it. So I got a couple of labor leaders, principally Joe Mazzola of the Plumbers Union and Goldberger of the Teamsters Union, these were old hands, and Crowley, the secretary of the Labor Council. I said, "We're going to go up to"--it was the Jack Tar Hotel at that time--"and we're going to lock this door and nobody's leaving this room until we get this strike settled." In any event, we got up to certain points and we settled it on what I thought was a reasonable basis, and the Board of Supervisors rejected it.

I was wrong about nobody getting out of that room. At two o'clock in the morning somebody bombed us, as the police track information, bombed my home by putting some kind of a pipe bomb on the front door. That bomb when it blew up pierced the door and lodged in the vestibule. Fortunately, nobody was standing behind that door, because at two o'clock in the morning, the only ones in the house at that time were my wife and, of course, my son Michael. They were up in their bedrooms. So, the bomb lodged there.

We knew who did it. It was that white crowd over in Berkeley. We were able to identify the car, but we couldn't find anybody in the car and that wasn't enough. In other words, it might have been your car, as an example, but we couldn't say that you were in it. Maybe somebody borrowed your car or maybe somebody stole your car or anything. But we identified the car. We knew who they were. It was that time when a lot of violence was being committed by women as a profile. It was the SL crowd. Do you remember the--

Hicke: Symbionese Liberation.

Alioto: The people who kidnapped Patty Hearst. One of the girls had been a yell leader in high school, but there was one tough one. I forget, kind of the philosopher of the group. Patricia Conizer or something like that. Anyway, the profile was they were young women, white, with rebellious notions. Anyway, they bombed the front of my house. Fortunately, nobody was hurt. Serious damage was done, so I left immediately from the hotel to get to my house and make sure that everybody was all right and then we went back to the hotel. When we settled and the Board of Supervisors wouldn't accept it, I decided to exercise the right to call an emergency and just by decree, in effect, settle the strike along the lines that we had bargained upon.
There was a good deal of criticism of me in the national press, because they didn't understand that I gave into demands of civil service workers. Nobody understood the simple fact that for twenty-two years that rule had been in effect and sometimes it was good for the policemen and sometimes it was bad for the policemen. Sometimes they lost money. Sometimes they gained money. In this particular year, because they gained money, the Board of Supervisors unilaterally abrogated the rule.

Hicke: I see.

Alioto: It was wrong, what they did. That's the way that was settled. As a result of that, the Board of Supervisors then, some members of the Board of Supervisors, I think it was Quentin Kopp, and Dianne Feinstein was on the Board of Supervisors at that time, and Roger Boas was on the Board of Supervisors at that time, they put a measure on the charter which prohibited the mayor from calling an emergency without the consent of the Board of Supervisors. They changed the law which had been in the City Charter since 1932. We were right about that. Obviously, it was an emergency to have your policemen on strike and your firemen on strike. It's an obvious emergency.

After there was some bargaining, we were able to get them to compromise somewhat on the rule which was in effect. When the Board of Supervisors rejected the package, I decided to take matters into my own hands and did it, and I got blasted by everybody except the Examiner. The Examiner at that time wrote an article, a man named Russ Cohn wrote an article in which he said something that, as far as he was concerned, that this was Alioto's finest hour. I don't think it was my finest hour, but nevertheless, that's what happened in that matter.

Here again, of course, my legal background played an important role in coming to the determination of what I could do and what I should do under the circumstances.

San Francisco Crime Commission

Hicke: Okay. Now, I just have these in the order that you mentioned them, so we can start with the Philadelphia Eagles?

Alioto: Let me talk first about one other thing in the mayor's office.

Hicke: Sure.
I decided to appoint a crime commission. I put in Moses Lasky as one of the chairmen of that crime commission, and they did some very fine work. It was quite a blue-ribbon committee. It had the president of the University of San Francisco on it, and Mr. Moses Lasky. It had philosophical bents, as well as legal bents, and included Harry Bridges and Dianne Feinstein. We had a whole group of people on our crime committee.

Then, in the midst of the marijuana hullabaloo, you have to understand the attitudes of the time, as distinguished from the attitudes of today. Mr. Lasky comes out with a majority report, for which the president of the University of San Francisco issued a minority report, saying that we should permit everybody to grow marijuana for his or her own use. Of course, in the temper of the times, it was just something you didn't do. So I had to take a public position in which I supported the minority view but asking everybody to continue to study it, that people had to be educated along these lines. That marijuana, which I think is not a good thing, nor do I think that whiskey is a good thing, nor do I think that smoking cigarettes is a good thing, that they had to distinguish between marijuana, for example, and heroin, but nobody made that distinction. Dope was dope, in those days.

In effect, we were talking about legalizing dope by letting people produce just enough for their own use, which was a very impractical thing to begin with, because manifestly the commercial channels were going to be used. But this is what Mr. Lasky came out with. Though I had appointed him to the commission, I then had to, in effect, engage in a public debate with him on that issue. It was just a crime committee making recommendations, and needless to say, that recommendation was never adopted.

It was good that people discussed and investigated those things, and we got a greater knowledge of those things. It is still my view today, the great argument for the legalization of drugs. We have somebody as conservative as William Buckley of the National Review advocating what he calls the Federal Drug Store. You go in and buy your dope from the federal government. I disagree with that, and I have debated Mr. Buckley on occasions, as I've told you, one rather famous debate in San Diego.

I just think that you have to keep the stamp of something that's socially undesirable on the question of drugs. It ought to be applied with a certain discretion. There were cries during my administration that we ought to legalize prostitution, and the people who talked that way didn't know about the scummy bums that run down to the bus station and pick off young girls as they come down from the country off a bus and get them into drugs and everything else and then into prostitution. The idea of
legalizing it didn't make any sense, but you had to always enforce things like that with a certain prudence, and you had to keep the dish stabilized.

Later on, when my successor, Mr. George Moscone, made some noises about legalizing prostitution in San Francisco or directing the cops not to pay attention to it, something of that nature, it must have been about 4,000 prostitutes who came in from all over California into San Francisco, and I likened it once, in an article I wrote, to Emma Lazarus. "Send me your huddled masses."

**Philadelphia Eagles Case, 1980**

Alioto: Those are a couple of things that happened in the mayor's office. Now, you wanted to talk about the Philadelphia Eagles case. That was an interesting case that I tried in 1980. That was a case with a limited partner, Leonard Tose, the majority partner of the Philadelphia Eagles, and limited partners only had 30 percent of the team, joined with the banks to get the banks not to give credit to Mr. Tose. It was an attempt as I thought to squeeze him out. We took a deposition. After they took a very personal and mean and oppressive deposition of Mr. Tose, showing that he had used Eagles' credit cards for his live-in girlfriend, which was a permanent arrangement; it wasn't a fly-by-night arrangement. He had used credit cards, they did that kind of stuff. So, the minority owner owned a racetrack.

In the deposition, during the course of the deposition, I asked him a question that went like this: "Have you ever in connection with the acquisition or the maintenance of your racetrack, bribed a public official?" I had the cynical view at that time that nobody who was acquiring or maintaining a racetrack in the state of Pennsylvania did so without paying somebody. There was consternation at that question. He refused to answer. I insisted on the answer. I said, "You took a very mean deposition of my man, and this answer has some relevance that could lead somewhere."

The upshot of that one question was that we adjourned to a lounge downstairs in one of the hotels, the bar of the hotel. They called it a lounge then. On a cocktail napkin, we settled the case by Mr. Tose paying $2 million for that 30 percent interest, which he sold for $22 million about a year and a half later. Then the rest of the case, after we got him out of the case, it was just against the banks and the--
Hicke: Oh, the Eagles were trying to squeeze him out by collaborating with the banks?

Alioto: Yes. The limited partner was, and I alleged that as a conspiracy. These were the major banks. In the course of the litigation, that major bank, which was supposed to be the bulwark of the community, the Gibraltar of the community, got into very serious financial trouble, and they fired the head man. It was kind of a show act. It was like showmanship rather than conservative banking. They fired the head man. As the courts ultimately held, we lost the bank fees of the case. The courts held that Mr. Tose did not have standing to challenge what the bankers were doing in connection with agreeing with other banks on the type of loan. This was prime plus, based on somebody on syndicated loans; it was based on some other banks. Whatever the Bank of America did, everybody would follow, for example, in a syndicated loan. I figured that was against the antitrust laws.

The courts held, I think, wrongly, as to the banks, but because Tose didn't have that type of syndicated loan, he didn't have standing to question it. My argument was that they obviously fixed the interest rate for everybody, whether they were syndicated loans or individual loans. So that is the story of the Philadelphia Eagles case. It was a remarkable case only in that our deposition could settle the major part of that case. It was done on a cocktail napkin, executed almost immediately. The transfers were done. Went through the NFL office in a hurry.

An interesting personality, Leonard Tose, the then owner of the Philadelphia Eagles, was known as Dom Perignon. Dom Perignon. He loved champagne. He loved parties. He loved celebration. A personality that was later driven out of his position as the head of the Eagles many years thereafter. That was one of the interesting cases in the history of football litigation. As you know, there's been a lot of it.

There's going to be another one here next week. That's the case I'm going to be filing against the NFL next week. I'm going to give you a copy of the complaint.

Hicke: Can we talk about that one now?

Alioto: Sure.

Hicke: Since we're on it.
New England Patriots, 1991

Alioto: Next week we are planning to file a case for $116 million of actual damages--the antitrust laws require they be trebled--against the National Football League by the founder and former owner of the New England Patriots, who happens, incidentally, to be my father-in-law.

Hicke: What's his name?

Alioto: Bill Sullivan. But, it also happens that he took the NFL's side in the struggle between the Raiders and [Pete] Roselle. He took Roselle's side at that time. Tagliabu, the commissioner, personally got him to be in Los Angeles as kind of the point man for the NFL in the struggle against the Raiders. But that's all past history. I've always had a civil relationship with my father-in-law. The fact that we differed about the Raider move was really not important.

Now, in 1987 he wanted to sell his team, 49 percent of his team for $40 million to $60 million, depending on the sale, to an investment banker who was going to sell it to the fans in small blocks, just as the Celtics have just done. They sold 40 percent of the Boston Celtics to the public through an investment banker who paid the entire amount up front. They had such a sale.

But the NFL has a rule, which I think is a per se violation of the antitrust laws, but in any event, an unreasonable restraint of trade under the rule of reason. They had a rule which said that you can't sell all or part of a football franchise to anybody who's not engaged in the football business, which means that corporate America, the entertainment companies--CBS, for example, used to own the Yankees, or the breweries, Budweiser, has owned the Cardinals. Colonel Rupert owned the New York Yankees. Or the entertainment companies, Twentieth Century Fox or MCA or the television companies or Sony, which is acquiring. It means that none of those people could buy an interest in a football club. I regard that as a violation of the antitrust laws. It's absolutely preclusive of entry into the business by corporate America or partnership America or some company [Inaudible].

They refused to let them do it. The result was he had to make a fire sale to Victor Khayam or a sale substantially below what it was worth. Then, just last year, they discover that one year before they turned down DeBartolo, Roselle and Tagliabu had permitted, before they turned down Mr. Sullivan, Roselle and Tagliabu had permitted DeBartolo of the 49ers to transfer 100 percent of the 49ers into the DeBartolo commercial corporation,
which was a very smart thing to do. The rule is crazy. The reason for the rule, in other words, they had let him do that.

The more important thing is that they concealed it from Mr. Sullivan and the other owners and at the very time that Sullivan was applying to do the same things through an investment banker. They didn't tell him that DeBartolo was doing this. Then, as a result of investigating by the *Forbes* magazine, Mr. DeBartolo's story came out just last year. Tagliabu was forced to "fine" DeBartolo $500,000, who was very, very happy to accept that fine so long as he could continue to keep the ball club in the commercial company, where the operating losses could be absorbed by the real estate profits. Sullivan wanted to do the same thing.

The result is he sold his team to Mr. Khayam for about $70 million. What he would have had had the sale gone through was 40 percent of the $60 million for 49 percent. That would have paid all of his debts and left him working capital and left him with 51 percent of the company today. The New York Giants, 50 percent of the New York Giants was sold just last week for $75 million, 50 percent of it. Fifty-one percent would have brought more. So instead of the $70 million he got, he would have had the $60 million plus $75 million, which is approximately $135 million, and he got $70 million. Then, in addition to that, he had to make settlements and pay interest that otherwise would have been wiped out. He suffered the damage of about $116 million; that is what we're going to allege in the complaint to be filed next week.

We notified the NFL about it. This is the way the thing works out. They had just met in Hawaii; that you've read for the past week. Then, the third day of their meeting in Hawaii, they have a programmed leak to a reporter, sports reporter, Will McDonough, who appears on NBC as well. A sports reporter on the *Boston Globe*. The program leak was on the case, not giving--

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Alioto: The next day I sent a seven-page letter to Mr. McDonough and to the *Examiner* writer and to the writer in Rhode Island so that they would have the full story as I've just given it to you. The original story omitted entirely the fact that they had permitted DeBartolo to do the same thing and then concealed it, I say fraudulently for fiduciary, concealed it from the other owners until an investigative report by *Forbes* forced it out in the open. This was discriminatory treatment.

I point out in this complaint that most rules of the NFL when attacked in court have been held illegal. They have tried to incorporate many of the rules held illegal as part of the
collective bargaining agreement and then claimed the labor exemptions from the antitrust laws. Such an exemption does exist and I don't think they can do that but that's another matter for the future. We have sued the NFL on other occasions. The Rule 4.3, which prohibited the Raiders from moving to Los Angeles, was held to be an unreasonable restraint of trade. I'm confident that this one will be held to be an unreasonable restraint of trade.

The only reason for this rule was to keep confidentiality, secrecy, and a certain freedom from scrutiny. That's what they want to be bargaining for. Roselle, in a lapsed moment, testified before the Congress when they were trying to get an exemption that would have annulled the Raider case, that would have retroactively knocked it out as it was in the final judgment, he split for a moment when they said, "Can we determine removal or non-removal on the basis of whether you're making a profit?" Roselle said, "No, the owners would be juggling the books and there would be family relationships," and things like that.

I think that's the only reason for this rule not permitting, for example, CBS or the fans, the public, to own a part of a team or participate in what we call a rooter's share. People would love it, as in the case of the Celtics. People love to buy ten or fifteen $10 shares in the Celtics and say that they're part owners of the Celtics. I think it's helpful to the team, it's helpful to the sport, and also it keeps everybody honest.

These aren't anything like inside deals, because these things have to be reported to shareholders. This is what they're trying to get--freedom from scrutiny, basically. I don't think that that's a pro-competitive effect. That's against competition: the idea of shutting out access to all of corporate America somebody who wants to sell, or blocking corporate America from gaining access to ownership of a football club.

I don't see any big difference between CBS owning the 49ers or the DeBartolos owning the 49ers. I don't see any big difference in that. This is what we're going to be fighting about. That's the next struggle against the NFL, and already the thing has generated tremendous publicity. The Boston Globe, the Providence Journal, the Patriot Ledger, television stations in Boston, and the radio stations in Boston. There will be a lot more when the case is filed next week.

Hicke: Back to your list--United Parcel?

Alioto: That was just another antitrust case. I don't think there's anything particularly significant about that. The only thing I remember about that case: there was a judge in New York. That
case was filed in New York on behalf of some independent truckers who were being put out of business by United Parcel. That case was being tried in New York. The Philadelphia Eagles case was being tried in Philadelphia. The trial date turned out to be the same. I assumed naively, Well, we're going to be able to get one of these judges to subordinate to the other or to defer to the other. And, no chance. Both of them said, "We're going there. Get somebody else to try one case or the other, Alioto." So, my son tried the United Parcel case. My son happens to be one of the finest trial lawyers in the country and got a very good result in that case.

Koreagate, Great America, Gucci, and Other Cases

Hicke: Koreagate?

Alioto: Koreagate. This, of course, was in the aftermath of Watergate. Everything that has a scam or scandal after that got the "gate" attached to it, whatever it was. Koreagate was the story of Tungston Park in the national news and international news. It was very much in the national and international news in 1977. There were allegations that Tungston Park had lavishly entertained congressmen, had made contributions to congressmen, and some suggested even bribes to congressmen.

As a result of my background with the Rice Growers Association, I have over the years represented and still represent the Connell Rice & Sugar Company, which is the largest international exporter of rice in the world. When we consider that rice is a basic staple of two-thirds of the world and that two-thirds of the world literally lives on rice, and a substantial portion of that, only on rice, you can see the importance of what was being done.

This case involved allegations that congressmen were bribed and were given large sums of money, lavishly entertained. They did indict one congressman from California, Congressman Hanna, who went to jail. He's the only one. They did indict Congressman Otto Passman, who was head of the Foreign Aid Committee in the House. A very, very strong southerner who had been there for years and years and exercised extraordinary political powers. Most of those southerners did, through control of committees at that time.

They indicted the rice exporter on the ground that he had paid large sums of money to Tungston Park, something like $9
million. But it was all paid in checks and it was all paid by bank transfers, all quite out in the open. When we protested having to use Tungston Park as a sales agent at the demand of the Koreans, the State Department, as a result of what Henry Kissinger was telling them, said, "Let them alone. The Koreans are our friends. They've got 50,000 troops down in Vietnam and we don't want to be upsetting them." So they paid the sums of money to Tungston Park as a sales agent, under protest, out in the open. Then they were indicted for paying it on the theory that before the grand jury, my client had said--and this is all in the public print--my client had said that he didn't know that the last payment to a Korean was actually to Tungston Park.

They indicted him. It was one of those hysterical things where they had to indict somebody, and Tungston Park's diary was published all over the world at that time. The department went and took twenty days of testimony from Tungston Park in Korea, and the president of Korea let them do it. It was one of those things where the case was brought to satisfy the hysteria and the anger that may have existed in the public, but was false. It was a false case, and we were able to prove that. We got most of the counts knocked out long before trial--three months before the trial. Three days before trial, Tungston Park sent an affidavit to the Department of Justice saying that the client was absolutely innocent of any knowledge that he was involved with this company and indeed he was trying to keep our client from knowing it, because our client was objecting to paying him a sales commission for work that he didn't really do. We paid him out in the open. So the government dismissed the case.

There have been before and there will continue to be the type of criminal prosecutions that serve to feed the instinct of revenge that people have in hysterical setting where you're not going to get a cold assessment of what the facts are until long after the time. It's just been coming out right now, for example, that with all of the hysteria and hatred against Saddam Hussein, justifiable hysteria and hatred, justifiable emotional shock and distress at his actions, it's now coming out very clearly that the United States ambassador, [Inaudible] somewhat encouraged him and led him to believe that--if you take that transcript and if that transcript is true and it appears to be the, according to statements of the columnists who have analyzed it, that the transcripts are substantially correct--it appears that there was a certain encouragement given to Saddam and he had reason to believe that the United States would not interfere with his occupation of Kuwait.

Those facts come out after the fact, after we all cool down and the hysteria subsides. That happens with lawsuits. It
happens with criminal suits all the time, and that's why, you know, the grand jury is nothing more than a rubber stamp for the prosecutor. Considering the grand jury as an institution, I think that some of the secrecy involved in the grand jury proceedings has to be opened up. It has to be modified to permit, for example, the appearance of a defendant, if he wants to testify before the grand jury, although it's not a wise thing. Or the appearance of his lawyer to make a statement on his behalf before the federal grand jury, things which can't be done under our present procedures.

Hicke: How much does this environment affect the judiciary?

Alioto: It affects it a lot. I think that there are many who stand up against it, but there are many judges who are affected by strong community feeling in one way or another. There are some recent sentences. I'm trying to think of one that was in the last six months or so, where we had a sentence that seemed totally disproportionate to the crime that was committed. The Bakker case. The minister. What was he given? Sixty years, seventy years? Some ridiculous amount, and the Court of Appeals sent it back and told the trial judge, "What the hell do you think you're doing?", in effect. Sure, there are some judges who are affected by the hysteria of the moment. There are many who are not.

Hicke: The Great America theme park?

Alioto: That was just an interesting individual case. I don't know that it has any particular ramifications. The Marriott Company wanted to get out of the theme park business, because they were losing money, and the real estate they had acquired to run a theme park had become extremely valuable. So they wanted to get out of the theme park business but they always faced the idea of eminent domain by the city of Santa Clara.

They gave an option to a client of mine to buy that property for $106 million and figured that was going to set an eminent domain price. Then they provided the option at the last minute that if the city of Santa Clara wanted to buy the property, the option would be defeated. At the very last minute, they got the city of Santa Clara to say they wanted to buy it, but they only got 3 out of 5 votes. They needed 4 out of 5 or something like that. We were able to work an arrangement where our client picked up $222 million as a result of that lawsuit. We tried the antitrust cases maybe three times for three months at a time, as we did in the Raiders case. This case was one day of trial.

You can get rather large results with one day of trial. The judge ruled in our favor that the city council had to have more
than just a majority of the votes to buy that theme park and to defeat our option. It's just a demonstration of the fact that there could be relatively large amounts of money involved in a short trial. These awards that people hear about would generally follow very, very long trials or very, very long pretrial situations that are the rule but there are exceptions where very short trials can result in rather large amounts of money.

Hicke: Then, a long time ago you mentioned the Gucci case. Is that still going on?

Alioto: Yes. The Gucci case. No, he's dead now. The Gucci case was interesting because it demonstrated the classic morality drama, I guess, of the son who turns against his father and in effect betrays him, for whatever reason. The Gucci Company was owned 50 percent by Aldo Gucci and 50 percent by his brother Mauricio, who died. His son was Mauricio maybe. Now, it was the nephew and Aldo Gucci. Gucci is the man who had built that famous empire. They used to be saddle makers. That's how the Guccis started. They started making saddles back in 1906.

It was Aldo Gucci who took them into elaborate leather works and then the clothes and the perfumes and everything else and established this worldwide organization. The exclusive American distributor of the Gucci goods was a very brilliant, attractive woman who lives here in San Francisco, Maria Manetti. She married a young man named Stephen Farrell. So they have the Manetti-Farrell firm. When Aldo Gucci's son transferred his less than 1 percent interest in the shares of stock to his cousin, that gave the cousin more than 50 percent control of the company and the first thing they did was throw out Aldo Gucci, the founder of the company.

Then the son went and reported to the Internal Revenue Service that he [the father] was using offshore companies to evade taxes in the United States by charging a high price to the offshore companies where there was then very little margin between the offshore company and the United States. They convicted him and sent the man to jail. Aldo Gucci and I spent two hours with him in his apartment in New York the day before he was to go down to Florida to jail. Here at eighty-seven, vigorous, yelling in a loud voice, was this man who had built this great empire.

Here's a son, an ungrateful son in many respects, but I guess there is that old syndrome, father and son syndrome where when hatred develops, it's hatred like none other that can exist except maybe between lovers who have fallen out. Watching this man who had built this company and thinking of a son, who in effect had sent him [the father] to jail on highly technical
stuff. Many people use offshore companies quite legitimately for tax avoidance, rather than tax evasion, but the line is so thin it's very easy to be convicted if one ever forgets the other. That's true of a lot of things.

When the federal government is out to get you, that federal government code is a big, big book with a lot of concepts. The difference between a campaign contribution and a bribe is a very, very thin line on many, many occasions and no matter which side of the thing you're on, they can always indict you. Might even convict you in that hysterical moment. But they can always indict you, and you can win in court but the indictment itself--. They indicted Gucci, not only indicted him, they sent him to jail for nine months, and he died about a year after that.

The dramatic insights. This kind of stuff, if you put it on a stage, some people wouldn't believe it. Of how a son will take just, I think it was a half of 1 percent he owned in stock, but it was enough to turn the balance, give control to Aldo Gucci's nephew, Aldo Gucci being the man that really built this company. Give control and they throw out Aldo Gucci, throw out his exclusive distributors, when we got into the act.

This was one of the cases that had a great deal of interest. It never occurred to me, for example, that all of the Gucci merchandise in the country, except that in the Gucci stores, in other words, all of the Gucci merchandise in Joseph Magnin or I. Magnin or Bergdorf Goodman or the department stores or Saks throughout the country, all of the Gucci merchandise there came out of a warehouse in Oakland. It was all shipped over from Florence, Italy, to the warehouse in Oakland and then distributed from here, and that's how that case came to be in San Francisco.

The insights you get on what is great business ability. I guess for one thing it demands not only a certain creativity, which the Guccis obviously had, but a kind of a fanaticism in following out and expanding it from a saddle company. This is what they were doing, making saddles, a very fancy saddle company dealing in women's purses and belts and leather clothes and leather luggage and all of the other fine things that the Guccis were doing with the great assistance of the Italian artisans, who were doing a lot of the French stuff at the moment, as you know.

A good deal of what the Italians do in terms of shoes, for example--the Gucci shoes are done at home throughout the country. They give these Florentines, who are good at hand work, they're great at hand work, they give them some minor equipment and stuff like that and then these shoes are being made or laces being sewn or tapestries are being woven at home.
Hicke: Cottage industry.

Alioto: In cottages, in homes, in people's homes in Italy, and of course it adds an element to the culture of the Italians. I guess it's one of the reasons why the Italians are very prosperous these days, despite the disasters and economic collapse after World War II. But, they work. They're all brought up to work, and they work hard and they work creatively and they work at beautiful things. So they have grabbed off so much of the world's trade in these things.

Hicke: They're very creative in designing and in designers.

Alioto: Yes. Very creative. The Gucci case was kind of a good insight into that and also into the human tragedies involved and the hatred which the son develops for a somewhat autocratic father, to be sure. He was an autocratic man, but he was a great achiever. I guess maybe he had a right to be a little autocratic. The result was he winds up a year before his death in an American jail. It's kind of a sad thing. I didn't represent him in the criminal case. I think we might have got him off if I did, but I didn't meet him until after that.

Hicke: You represented Manetti-Farrell?

Alioto: I represented Maria Manetti, who was the exclusive distributor for all of the goods throughout the United States, except in the Gucci store itself. But, for all of the major merchandise. It's distributed, of course, throughout the country in the major department stores of America. This is what she did, and she made a lot of money on it. She's a very successful woman who has a gorgeous apartment up here on Chestnut Street. It was done by a Chinese interior decorator who recently died.

In any event, the thing about the law business or the practice of the law, the profession of the law, is that there is an incredible degree of human interest. You never know what's going to walk through that door. You never know what kind of case involving a good deal of human interest. This is the nice thing about the type of practice I guess that I have been fortunate to have developed. It's a practice that has constant interest. You see all sorts of manifestations of human conduct and human behavior.

I sometimes think that if I had been a probate lawyer--and there are interesting things there too sometimes. But there is nothing humdrum about the practice of being a trial lawyer. There's a great deal of interest in it. We do criminal cases, as well as civil cases. The criminal cases are largely confined to
business criminal cases, business litigation. That's pretty much the story, Carole.

Hicke: Okay. The S&L cases?

Alioto: Well, I tried that Oldenberg case up here. It received a lot of publicity. Mr. Oldenberg, as you know, was a man who, among other things, in his flamboyant days, bought a USFL team in Los Angeles and went after the NFL. He and Donald Trump were the principal factors in the struggle against the NFL, which was an ill-fated struggle, as it turns out. But Donald Trump went out and got Herschel Walker when he was still a junior.

Oldenberg revolutionized the industry by paying Steve Young, the present second-string quarterback of the 49ers, he gave him a contract for $38 million. It's a contract that extended over a series of years. It's actually a contract for $7 million but when you take the money on an annuity basis, when you take the money, it doubles every seven years and keeps doubling. So, he was able to give him what sounded like a $38 million contract, and that upset all of the negotiations among all of the owners of the National Football League, which is one of the reasons why I think they determined to put the USFL out of business.

There's an actual written document of a seminar held at Harvard, no less, of how to kill off the USFL. A seminar held by NFL executives. I don't believe the stupidity of this crowd. A seminar on how do we kill off the USFL, and they equated it to methods of war and how it was important to destroy this league. Crazy thing, but they ultimately did, although I think that the format of the spring football was questionable.

That about covers everything we've done around here that has any interest and a lot of it doesn't have interest. I hope we can edit this thing in some way to make it concise.

Hicke: There are two more things, and you can tell me whether they're worth talking about. The Nintendo case and the Japanese computer industry case.

Alioto: Within the last year, we have brought a series of cases directed against Japanese companies which have taken over American companies and with the companies, their technology. I have no problem about Japanese investing in the United States. I don't think it makes the slightest bit of difference to us whether the Trump Tower is owned by Donald Trump or owned by the Mitsubishi Company. I don't think it makes the slightest bit of difference to us. I have no problem about that.
I have a problem, however, of Japanese companies using a lot of cheap dollars to buy minority interest in American companies and then using the Arab-and-the-camel technique, winding up with all of the technology that was invented, created by the American companies. Nintendo is one example.\(^1\) Nintendo was created by an American company, Magnavox, but now today 80 percent of all the consoles, and there are about 28 million in America, 80 percent of all of those consoles are manufactured by the Japanese company, Nintendo, which was a playing card company. That was their main business. They used to manufacture playing cards. Now, they have 80 percent of the industry and they're driving to get 100 percent of the industry.

In the other case, we were talking about Graphics Super Computer industry. I think it's very important that that super computer, graphic super computer, which has all sorts of uses, including military uses, that technology was taken over by a Japanese company, which first had a 40 percent interest in one company, then forced a merger with its only real competitor in the sense that the merger of the two created more than 50 percent of the industry. Then they had 20 percent. Then before long, by holding the carrot stick of financing dollars, were able to close the Sunnyvale plant of the Americans and put in their own plant instead, so that they drained that technology from a 20 percent company into a 100 percent company. Down in Santa Clara they now control that entire technology.

Before we started the lawsuit, the Japanese had promised to pay for this, to give credit of something like $20 million. The minute we started the lawsuit or made noises about the lawsuit, they upped the ante to $50 million in their plans and campaigns to acquire 100 percent of the technology from American companies. So, we have three of those cases in which Japanese companies have acted in America as though the antitrust laws didn't exist. It's understandable because back in Japan they act through cartels. Kibitzus is what they call them. [actually it's called the system of keiretsu--sp.] Those kibitzus are kind of families of companies where the banks and certain companies, certain banks head up the group. It's under the auspices of NITI, which is the Ministry of Interior Trade or something like that. MITI is the initials.

Hicke: It's a government--

\(^1\)American Video Entertainment v. Nintendo.
Alioto: It's a government organization that sponsors these kibitzus. So, they're using cartel tactics to get into America and then once it--

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Alioto: Once they get into America, they act kind of oblivious to the antitrust laws, what the antitrust laws mean. I think that's something we have to look at. Japanese investment, fine, but they have to abide by the antitrust laws once they get here and not use overwhelming monopoly power either in terms of financing or anything else for the purpose of acquiring technologies that were created in America. The Graphics Super Computer technology, which was developed right here in America, right now is dominated by the Japanese. It was developed by our client, the Ardent Computer Company, by a Massachusetts company called Stellar Computer Company. The Japanese got into one of them, forced a merger of the two of them, and Stellar and Ardent became Stardent. The Japanese have taken technology now into a 100 percent controlled subsidiary and I think that's something the United States has to start thinking about and start thinking about very seriously: whether we can let all the technology that was developed here, in effect, be acquired by the Japanese and 100 percent Japanese companies.

Hicke: Do they have antitrust laws in Japan?

Alioto: They have a so-called monopoly law in Japan. So called. It's not inconsistent to have these kibitzus, as they call them, which are large families of corporations which act in collaboration and jointly, under the control of the Japanese government. They have some kind of anti-monopoly law but certainly, like that case we're talking about, their actions in America are somewhat arbitrary. Here's the Sony Corporation now taking over MCA. They're getting all the software, the pictures, and everything else to go with the television.

Some of us have tried to analyze it. The crazy thing is that one of the things that has stopped the drive of Japanese and German supremacy has been the war, the war in the desert [Persian Gulf]. The logistical ability of the Americans to move huge equipment and the men anywhere in the world has startled the world about how efficient Americans can be, how good they are. If we could somehow get that same spur into the automobile companies, to compete, to quit getting on their knees and asking for protection, I say just compete with the Japanese, that competition rather than protectionism will see you through, in my opinion.
We are bringing a number of these cases, and we are calling attention to the fact that the Japanese are acquiring a good deal of American technology, American technology that was invented in America by Americans, and acquiring it just by the cheap dollars that they have gathered throughout the world. I welcome their investment in real estate. I think that's fine. I say what difference does it make whether Donald Trump owns the Trump Tower or whether the Japanese own it? What difference does it make to us? On the other hand, when you start getting to control of technical equipment and control of industries that have security implications, then we have to look at it in a different light, in my opinion.

Hicke: Is there anything else you can think of?

Alioto: No, I think we have enough, Carole. Why don't we try to put this together?

Hicke: Thank you very much. I really do appreciate it.

Alioto: Let's try to put this together in some cohesive form.
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<td>&quot;Mayor Joseph L. Alioto's only political label: Optimist,&quot; Hadley Roff, San Francisco Examiner, February 1, 1998</td>
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ISSUES SETTLED 1968-1976  
(Alioto’s mayoral years)

1. Freeway issue settled once and for all (there weren’t going to be any).
   A. Golden Gate Bridge approach.
   B. Marina Green.
   C. Bay Street.
   D. Fisherman’s Wharf.

   All saved from freeway which had already been minutely designed.

2. Highway 280 assured construction of its present location instead of alongside Crystal Springs.
   A. 20,000 acre Heche Heche property assured of future of open space and recreation with San Mateo County committed to no development.

3. Performing Arts Additions.
   A. San Francisco Symphony first $5 million from interest only on block government grants to cities.
   B. Herbst 1,000 seat loges in Veterans Building.
   C. 1,000 seat rocking chair loges in Palace of Fine Arts.
   D. Exploratorium in Palace of Fine Arts instead of tennis courts desired by local cafe society figures.

4. Recognition that cities were entitled to block grants with programs to be developed by the individual municipal authorities.

5. Immediate stabilization of racial relations by granting African American leaders instant positions in Mayor’s Office, Public Utilities, Police Commission and BART. Recognized when President Johnson called Mayor Alioto to congratulate him on fact that San Francisco was the only major city not burning the night of Martin Luther King’s assassination.

6. Complete overhaul of Muni system with responsibility charged to workers for progressive leadership which did in fact ensue. Virtual 100%
replacement of Muni's passenger vehicles with responsibility of labor union officials to increase their areas of commitment in exchange for top jobs.

7. Recognition of labor union officials as city leaders on City Commission. This spread through the whole programs.

8. Downtown Development.

A. Transamerica Pyramid Building and Embarcadero Center built after official refusal by Planning Commissioner (Transamerica Building) and by local political pressures (Embarcadero Center). Embarcadero Center I, II, III, IV and V, V being the Hyatt Regency Hotel.

B. Exchange of building highrise downtown centers in trade off for mini park at base (Transamerica, Embarcadero Center, Exxon Building, etc.)


10. Close collaboration between business and labor union leadership to force their programs of mutual interest recognizing that downtown and the neighborhood have common objectives -- and that you cannot have prosperous neighborhoods without a prosperous downtown.

11. Dedication of property on Fort Point to St. Francis Yacht Club by Defense Department as a public promenade in perpetuity.

12. Dedication of public fountain to entertainment and cultural affairs.

13. Development of neighborhood spontaneous event suitable to the history tradition and cultures of the neighborhood.

14. The youth of San Francisco in an articulated leadership had America's model city with discrimination eliminated and various styles of life recognized so long as they didn't intrude upon the private lives of other citizens.
Ex-Mayor Joe Alioto Dies at 81

Two-term San Francisco Mayor Joseph L. Alioto had a style that was forceful, stylish and energetic, winning him friends and enemies.
Flamboyant, zestful — he altered look of S.F.

By Jerry Carroll
and William Carlsen
Chronicle Staff Writers

Joseph L. Alioto, a masterful attorney who as mayor presided over San Francisco with exuberance and style during one of the city's most turbulent periods, died yesterday at his San Francisco home after a long battle with cancer. He was 81.

A doctor's attending the former mayor notified members of his family earlier in the day that Alioto had taken a turn for the worse, and many of them, including his daughter, former San Francisco Supervisor Angela Alioto, were gathered at his bedside when he died, according to several friends of the family.

Alioto was first diagnosed with prostate cancer in 1991 and last year was told that the cancer had spread. He was in and out of the hospital but returned to his Pacific Heights home late last year, determined to fight as long as he could, optimistic to the end that he could beat the disease.

From the day he burst onto the political scene in the 1960s, Alioto was seldom far from controversy, evoking admiration and distrust in equal measure.

Friends and political supporters found Alioto bold, tireless, and articulate, combining a boundless self-confidence with a buoyant charm and erudition that enabled him to dominate any gathering.

His enemies conceded Alioto these extravagant gifts, but said he had a darker side that was devious, vindictive and grasping, and not above using public office to promote his own private interests.

Yet few could dispute his legacy as mayor — an explosion of downtown growth that changed the city's skyline, helped cement San Francisco as a player on the Pacific Rim and stirred up the neighborhoods in a way that has altered the city's political landscape to this day.

Alioto was elected to the first of his two four-year terms as mayor in 1967. For a time in 1968 he was considered by Hubert Humphrey as a vice presidential running mate, and he ran unsuccessfully for governor of California in 1974.

In addition to his political career, he was one of the country's most brilliant antitrust lawyers, founded a bank, headed the world's largest agricultural milling organization, had shipping, ranching and real estate interests, and was a philanthropist and patron of the arts.

But the peaks were matched by valleys.

A magazine accused Alioto of having Mafia ties, starting a bitter 11-year legal battle. He was tried in civil and criminal court in a kickback case, suffered through a sensational divorce, and was found...
guilty of conflict of interest in the final days of his administration as mayor.

In recent years, he was plagued by debts, a major legal malpractice judgment, and threats of foreclosure on his Pacific Heights home that forced him to continue working almost to his death.

He tangled repeatedly with the State Bar, which recommended in 1996 that his license be suspended. And one of his proudest achievements, the Alioto family law practice, a dynasty which at times included four of his children, disintegrated several years ago in squabbles over money.

Epic Poem Enthralled Listeners

None of it, however, could blunt Alioto’s irrepressible personality and San Franciscans’ genuine affection for him. One night in 1992, he held a crowd at a North Beach cafe enthralled as he read rhymed couplets from an epic historical poem he had written about San Francisco.

Police had closed off the street and people stood on rooftops and hung out windows, laughing and applauding and shouting out “bravo” when he finished.

The 33rd mayor of San Francisco was born February 12, 1916, in North Beach in a second-floor flat at 572 Filbert Street, the son of Giuseppe and Domenica Lazio Alioto. His father was a Sicilian fisherman who left his native village at the age of 9 to become a successful San Francisco fish wholesaler.

The young Alioto was raised in comfort amid a noisy clan of double cousins. Dutifully, if school yard differences had to be settled with fists, Alioto would send a note home to momma saying, “I will be late today. I am having a fight after school.” He never lost this early relish for a good scrap.

Alioto’s early education was at Garfield School and Salesian School. He spoke only Italian until he was 4. He went to Sacred Heart High School and St. Mary’s College and was always either class or student body president.

A star debater as an undergraduate, Alioto graduated Magna cum Laude from St. Mary’s in 1937 and won a scholarship to Catholic University of America Law School in Washington, D.C. In his second year there, he met Angelina Genaro of Dallas, the pretty daughter of a wholesaler and beer distributor.

On their first date, she was later to recall, “we had Welch’s grape juice. We played Chinese checkers all that evening.”

After he graduated and took a $175-a-month job in the antitrust division of President Franklin D. Roosevelt’s Justice Department, their wedding took place on June 2, 1941. There were eventually to be six children, Lawrence, Joseph M., John, Thomas, Angela Mia and Michael.

In 1945, Alioto took what he had learned in government and opened a private antitrust practice in San Francisco, one of the first such practices in the nation. He enjoyed defending what he called the “little guy,” individuals and small businesses who were often hurt by the anti-competitive practices of big business.

Of his work he said, “It became lucrative, and that’s an enjoyable thing — to have it lucrative with a social philosophy.”

Appointed to School Board in ’48

In 1948, Alioto was appointed to the San Francisco school board and in 1955, Mayor Elmer Robinson named him to the Redevelopment Agency board. Wealthy by then, Alioto was a heavy contributor to Democratic Party candidates.

In 1967, he was co-chairman of state Senator Eugene McAteer’s campaign for mayor when McAteer died suddenly from a heart attack. Taking his ease in a Florence villa, Alioto was asked if he would become a candidate.

He accepted and waged a lightning 55-day campaign that overcame the 44-to-17-point lead his rival, Harold Dobbs, had in the polls. Bull-shouldered and ebullient, bald and perfectly tailored, Alioto’s energy and vitality attracted national notice.

After only six months in office, he was angling for the vice-presidential spot alongside Hubert Humphrey on the 1968 Democratic ticket. When the nod went to U.S. Senator Edmund Muskie of Maine, Alioto nominated Humphrey at the national convention and promptly set his sights on the governorship in 1970.

In 1969, however, he was accused of splitting a $2.3 million fee with Washington state Attorney General John O’Connell after O’Connell quietly agreed to raise Alioto’s fee from $1 million for a lawsuit against 29 electrical contractors. Alioto won a civil trial stemming from that accusation and a judge dismissed criminal charges filed by the federal government.

Look Magazine Article

Also in 1969, Look magazine published a long article entitled, “The web that links San Francisco’s Mayor Alioto and the Mafia.”

Alioto filed a $12.5 million libel suit, but the article joined with the fee-splitting charges to force him out of the governor’s race. Four trials and 11 years later, he collected vindication and $350,000 from Cowles Communications Inc. in winning the libel case.

“It should help to stop the continuing slanders against Americans of Italian descent,” he said after the verdict.

In 1974, when he was making his second unsuccessful run at the governorship, Alioto’s campaign was damaged by disclosures he had paid no income tax in 1970, 1971 and 1972 and by the 18-day disappearance of his wife.

He explained the first by saying his income had dropped by an average $500,000 a year since entering the mayor’s office and that his law firm had been operating at a loss while its lawyers worked on the libel and fee-splitting cases.

Angelina Alioto showed up after a police search proved unavailing to say she disappeared to “punish” her husband for his neglect. She complained she had only the company of a housekeeper in the Aliotos’ big Presidio Terrace mansion while her husband barnstormed around the state.
A Messy Divorce

From that point on, the domestic troubles of the Aliotos were increasingly aired in public. In February 1975, she filed suit to dissolve their 33-year marriage and obtain her share of an estate whose worth she set at $8.7 million. The case was in and out of the courts for the next three years.

In 1974 the district attorney held that Alioto was in conflict of interest for having helped arrange the financing for his family's purchase of Pacific Far East Line and installing his son as president. The purchase came at a time when the line owed $1.7 million in back rent to the city-owned port.

Alioto filed suit to get a judicial ruling and in the trial that followed he was at the top of his dazzling courtroom form, lecturing the judge on the law, the jury on the duties of fatherhood, and opposing lawyers on business management techniques.

This was the sort of performance San Franciscans expected from Alioto, who in addition to everything else was fond of quoting Dante and St. Thomas Aquinas to illustrate his points. Once, following a bravura performance before a U.S. Senate committee, Senator Hubert Humphrey said admiringly, "I stand in amazement at your fund of knowledge."

But in the end, he lost the conflict-of-interest trial and was found guilty. Noting this, the grand jury said in its annual report that Alioto suffered from "community mistrust." He fired back saying he favored appointing grand jurors with more brains.

It was not in Alioto's nature to accept criticism, nor did he tolerate any aimed at family or friends. His scorn could be withering and few, if any, were his equal in the swift and savage put-down.

He devoted most of his last mayoral news conference to excoriating the press. Nonetheless, The Chronicle the next day called Alioto "this colorful and zestful man who roared into office literally bursting with energy and imagination" and pronounced him "one of the most energetic, entertaining and stylish of mayors."

Skyline Transformed

During his eight years in office, Alioto tirelessly promoted downtown growth, an activity that remade San Francisco's skyline with buildings like the Trans-America Pyramid, the Embarcadero Center and other skyscrapers.

His civic boosterism won him the gratitude of developers and construction unions and the enmity of environmentalists, who accused him of fostering the "Manhattanization" of the city.

It was a politically and socially unsettling time — hippies occupied the Haight-Ashbury, anti-war demonstrators marched through the streets and racial tensions boiled to the surface with a series of street killings known as the Zebra murders.

At the helm, Alioto, a moderate Democrat, kept a steady hand. A strong advocate of civil rights, he reflected the tolerance of the city and he had no problem winning re-election as mayor in 1972.

Relieved to be back in private life after his second term and not required to make the public accounting elective office required, Alioto found romance with a woman nearly half his age. In 1978, the 62-year-old former mayor married 35-year-old Kathleen Sullivan, a talented Boston educator and daughter of a wealthy businessman who was an owner of the New England Patriots football team.

She said at the time that she was "absolutely mesmerized" by Alioto. The couple had two children, Patrick and Mary.

Alioto plunged back into his law practice, which now included his sons Joseph and Lawrence. He rapidly picked up new antitrust clients, representing the Oakland Raiders and financier William Oldenburg, and traveled to courtrooms across the country.

Though he had large successes in court — the biggest was his successful defense of Raiders owner Al Davis' right to move his football team to Los Angeles — the low point came in 1980 when he and his son, Joseph M. Alioto, lost a major legal malpractice case and were required to pay $3.2 million in damages.

Because he carried no malpractice insurance, the judgment plagued him financially for the remainder of his life.

But the setbacks never broke his spirit. When he was asked about the past, he said he never had regrets about the offices he sought unsuccessfully, the Mafia allegations that haunted him over the years or the courtroom setbacks.

"Why should I be bitter about anything?" he said. "I play the violin. I read books. I have a great pride in my children.... The other stuff is all the flotsam and jetsam of living."

Mr. Alioto is survived by his wife his children, Lawrence, Joseph M., John, Thomas, Angela Mia of San Francisco, Michael, Patrick and Mary.

Services are pending.
Alioto, whose father had been a fish wholesaler in San Francisco, at the blessing of the fleet at Fisherman’s Wharf in 1972
During the 1975 police strike, Alioto strolled in the Tenderloin to assure San Franciscans that the streets remained safe.
<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
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</thead>
<tbody>
<tr>
<td>1916</td>
<td>Born in San Francisco.</td>
</tr>
<tr>
<td>1937</td>
<td>Graduated from St. Mary's College, Moraga.</td>
</tr>
<tr>
<td>1940</td>
<td>Graduated from Catholic University in Washington D.C., with law degree.</td>
</tr>
<tr>
<td>1940-1945</td>
<td>Worked as antitrust lawyer for U.S. Justice Department.</td>
</tr>
<tr>
<td>1941</td>
<td>Married Angelina Genaro of Dallas. Six children.</td>
</tr>
<tr>
<td>1945 to present</td>
<td>Antitrust private practice in San Francisco.</td>
</tr>
<tr>
<td>1968-1976</td>
<td>Elected to two terms as mayor of San Francisco.</td>
</tr>
<tr>
<td>1968</td>
<td>Considered by Hubert Humphrey as vice-presidential running mate.</td>
</tr>
<tr>
<td>1974</td>
<td>Lost Democratic primary race for governor.</td>
</tr>
<tr>
<td>1977</td>
<td>Returned full-time to private practice.</td>
</tr>
<tr>
<td>1980</td>
<td>Lost a $32 million legal malpractice case filed against him by a Wyoming rancher.</td>
</tr>
<tr>
<td>1992</td>
<td>Alioto &amp; Alioto, his law practice with his children, dissolved in a family feud. His sons left, but his daughter, Angela Alioto, continued to practice with him.</td>
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Mayor Joseph L. Alioto’s only political label:
Optimist

The call came from the Police Department to City Hall on April 4, 1968 — almost 30 years ago. It was urgent and alarming. Dr. Martin Luther King Jr. was dead in Memphis. Shot by an unknown assassin. Could be serious trouble. Tell the mayor.

Comprehension was instantaneous in those startling, commanding eyes. Without hesitation, Mayor Joseph L. Alioto issued an order: Tomorrow, we’ll have an ecumenical memorial service on the steps of City Hall, all faiths together in tribute and prayer.

Police Chief Tom Cahill raced from the Hall of Justice to object. No way! A crowd invites riot.

The next noon, crowding into Civic Center outside a stage built hastily over the Polk Street steps into City Hall, more than 10,000 persons stood stiffly, silently — all races, men, women, school kids — their stillness absolute, each seemingly jacketed by anxiety.

Police sharpshooters were silhouetted on the roof of Civic Auditorium; helmeted squads mobilized nearby. Even the religious leaders, in all the dignity of their robes and symbols, were gravely mute as they mounted the steps.

The mitered archbishop, the simply robed monk, the rabbi, the priests and ministers of major denominations each offered brief prayers for Dr. King and the principles of justice and harmony for which he was martyred.

The service itself probably lasted no more than a half-hour. And in that time, the tension melted. Faces lost their rigidity and expressed a common grief. And in the end, all 10,000 joined hands and swayed in unison as they sang “We Shall Overcome.”

Violence flamed that day in Washington, D.C., and 130 other cities with the crunch of marching National Guardsmen on their streets. But not San Francisco, aside from a few random acts, broken windows for the most part.

For Alioto, the decision to assemble a large gathering was immediate, truly within the blink of an eye. An antitrust lawyer, he had been mayor for only four months, a newcomer to City Hall.
was optimism. To him, hope would triumph over despair, and, given a decisive alternative, grief would voice itself in reconciliation, not vent itself in violence.

Often overlooked about Alioto's two terms as mayor (1968 to 1976) are the doors he opened into city government for racial minorities, appointing the first African American as a deputy mayor (Revels Cayton), and a Hispanic American (Robert Gonzales) and an Asian American (George Chin) to the Board of Supervisors.

It was unprecedented when he appointed minorities to all major commissions, including an African American to the Police Commission, Dr. Washington Garner.

He also named Harry Bridges to the Port Commission and Bill Chester to the BART board, and he turned for advice to Dave Jenkins. All three came from the International Longshoremen's and Warehousemen's Union — one of the first unions to be fully integrated — which had shut down The City in a general strike more than 30 years earlier.

Actually, Alioto defied political labeling. And while he worked to create jobs for deprived youngsters and to build better community facilities in Hunters Point and other depressed neighborhoods, he opposed school busing as a disruption of close neighborhood ties between parents and teachers.

Still reverberating is controversy over his policy to replace rundown buildings with high-rises in a new Financial District, with a convention complex in the South of Market and with new public housing in the Western Addition. The construction and increased business opportunities and tourism, to him, meant jobs. And jobs meant greater economic security for more San Franciscans.

Critics objected that long-time blue-collar jobs and low-cost housing would be displaced.

In the hindsight of history, there's substance in both viewpoints, although there seems no debate that San Francisco today is a world-class commercial and cultural center of breathtaking beauty and extraordinary diversity.

The City's commitment to tolerance and justice, to the pursuit of hope and opportunity, remains steadfast, and city government is more broadly representative than ever before, standing as it does on a large wooden platform Mayor Alioto built that fateful April day.
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Carole E. Hicke

B.A., University of Iowa; economics

M.A., San Francisco State University; U.S. history with emphasis on the American West; thesis: "James Rolph, Mayor of San Francisco."

Interviewer/editor/writer, 1978-present, for business and law firm histories, specializing in oral history techniques. Independently employed.

Interviewer-editor, Regional Oral History Office, University of California, Berkeley, 1985 to present, specializing in California legal, political, and business histories.

Editor (1980-1985) newsletters of two professional historical associations: Western Association of Women Historians and Coordinating Committee for Women in the Historical Profession.

Visiting lecturer, San Francisco State University in U.S. history, history of California, history of Hawaii, legal oral history.