

O'Hara Ouster

S.T. A-28-77

Bid Filed

S.T.

(States-Item Bureau)
BATON ROUGE—The New Orleans Metropolitan Crime Commission today filed a petition with

Atty. Gen. Jack Gremlion seeking the removal of Criminal District Judge Malcolm O'Hara, charging him with gross misconduct and possible high crimes in office.

The petition bore the signatures of 45 persons, 20 more than needed under the law which requires the attorney

general to institute proceedings before the state supreme court.

Gremlion said that he would proceed without undue delay, but that it would take time to investigate and carry out the mechanics of the proceedings.

E. C. Upton Jr., president of the crime commission, forwarded the petition to Gremlion, citing O'Hara's appearance and testimony before a federal court in Chicago. The New Orleans judge admitted being the companion of a convicted man and having had his expenses paid by the man.

The petition submitted to Gremlion said:

"According to our information and belief, based upon the sworn testimony of Judge O'Hara and Zachary A. Strate Jr., before the Federal District Court for the Northern District of Illinois on Aug. 18 and 21, 1967, Judge O'Hara has engaged in acts constituting gross misconduct, and/or possible high crimes and misdemeanors in office, by performing services which Judge O'Hara described as those of a messenger and companion on behalf of two convicted felons, James R. Hoffa and Zachary A. Strate Jr.

"According to our information and belief, Judge O'Hara did consort with, and accept

gifts of substantial value from, one of the convicted felons, namely Zachary A. Strate Jr.

The petition included the following documents:

Transcripts of testimony of O'Hara and Strate in Chicago, news articles from the States-Item, the Times-Picayune and copies of editorials from the Times-Picayune and WDSU-TV.

In his accompanying letter to Gremlion, Upton said that all of the citizens signing the

petition are residents of Orleans Parish.

He said further, "In accordance with article O, sections 1 and 5 of the Constitution of

the State of Louisiana, this petition makes it mandatory upon you to institute proceedings before the supreme court of this state for their decision on the removal from office of Orleans Parish Criminal District Court Judge Malcolm V. O'Hara."

THE MCC EARLIER had asked Gov. John J. McKeithen to initiate action against O'Hara, but the governor declined, pointing out that the crime commission could investigate the action with a petition signed by 25 citizens and taxpayers.

Meanwhile, the New Orleans Bar Association also stepped into the picture and urged the attorney general to move against O'Hara. On the basis of that request, Gremlion said he had started an investigation of the case and has assigned four of his assistants to handle it.

Judge O'Hara became the subject of controversy after he testified last month at a Chicago federal court hearing on a motion for a new trial for Hoffa, the Teamsters' Union president convicted of jury tampering at Chattanooga, Tenn., in 1964.

THE JUDGE SAID that he had acted as a messenger in an attempt to get Baton Rouge Teamster official Ed-

ward Grady Partin, whose testimony was instrumental in convicting Hoffa, to change his story. Judge O'Hara said during the hearing that there was an attempt to get Partin to sign an affidavit stating that illegal wire-tap evidence had been used to convict Hoffa.

Judge O'Hara said that he had been the expense-paid traveling companion of Strate, who was convicted with Hoffa of conspiracy and fraud in another case.

Yesterday, O'Hara was called before a federal grand jury, which is investigating allegations of a conspiracy to get Partin to change his story.

Those who signed the petition are:

- E. C. Upton Jr., 629 Burdette.
- Dr. J. D. Grey, 4524 S. Galvez.
- P. L. Frank Jr., 4129 Vendome pl.
- Robert D. Hess, 5534 Prytaniania.

- John S. Froelich, 5371 Charlotte dr.
- E. S. Shamburger, 1486 Granada.
- G. C. Adds, 4932 S. Rocheblave.
- T. O. Winn, 838 Mouton.
- Neil Parks, 2329 Lark.
- J. M. Jolley, 7300 Onyx.
- A. M. Brian Jr., 1514 Fern.
- F. Kennedy Johnson, 4243 Vincennes.
- Joseph W. Simon Jr., 2516 Pine.
- Bailey T. DeBardeleben, 5582 Jacquelyn ct.
- Shirley B. Braselman, 921 Dauphine.
- Frank H. Walk, 1543 Henry Clay ave.
- William Brandner, 5200

- Bancroft dr.
- Isaac Alcus, 4007 St. Charles ave.
- A. J. Maier, 4241 Gen. Pershing.
- Eugene A. Sheehan, 5604 Woodlawn pl.
- W. K. Watters, 2314 Camp.
- M. Hepburn Many, 4 Cromwell pl.
- Samuel A. Carleton, 3701 Carondelet.
- John P. Chussonerges, 511 Gallier dr.
- Benjamin Toledano, 5508 St. Anthony.
- A. E. Simmons Jr., 1544 State.
- Samuel Wilson Jr., 1121 Washington ave.
- J. M. Baldwin, 306 Carondelet bldg.
- Lawrance B. Eustis, 2837 Eton.
- Edgar Bright Jr., 1415 Exposition blvd.
- Ray W. Brown, 1801 Upperline.
- L. E. Cox Jr., 2112 State st.
- Murphy Moss, 153 Bellair dr.
- Morrell F. Trimble, 7020 Green.
- Darwin S. Fenner, 6123 Marquette pl.
- E. J. Hardie Jr., 1719 Peniston.
- William Thompson, 1930 Jefferson ave.
- Robert E. Young, 5530 S. Liberty.
- Russell Clark, 1680 State.
- Elroy Perrien, 1414 Jefferson ave.
- St. Marc J. Flotte, 3410 Octavia.
- Arthur Fort, 38 Warbler.
- Clarence Scheps, 6321 Freeret.
- William S. Turner, 2705 Prytanian.
- One signature was illegible.

178

Seek DA, O'Hara Recusal

MCC Takes Records Case to Top Court

Attorneys for the Metropolitan Crime Commission today asked the State Supreme Court to recuse Criminal Judge Malcolm V. O'Hara and District Attorney Jim Garrison as advisors to the Orleans Parish Grand Jury. They also asked the court to quash a subpoena ordering the MCC to show all of its records to the grand jury.

Criminal Judge Matthew S. Braniff today denied a move by attorneys for the Metropolitan Crime Commission to have Judge Malcolm V. O'Hara recuse himself as advisor to the Orleans Parish Grand Jury.

The motion was filed in answer to a subpoena ordering the crime commission to bring all of its records, including names of confidential informants, before the grand jury this afternoon.

MCC attorneys also filed a motion to quash the subpoena and a motion calling for the recusal of District Attorney Jim Garrison.

Milton Brener, MCC lawyer, said the commission would appeal Judge Braniff's decision. Then, Judge O'Hara denied the

MCC motion for a delay to give attorneys time to file writs.

The state, represented by assistant DAS James L. Alcock and Richard V. Burnes, argued that the MCC had no basis for requesting O'Hara's recusal. They said the law states that a judge should be recused when he has a personal conflict in a trial situation. This is not a trial situation, they said.

Brener called the state's argument a "narrow interpretation" of the law.

JUDGE BRANIFF, HOWEVER, agreed with the state, saying that the MCC had stated no cause of action.

Judge Braniff then ordered the parties back to Judge O'Hara's court. O'Hara first denied a delay to give time for an appeal and then ruled against the MCC's motion for recusal of Garrison as legal advisor to the grand jury.

The motion to quash the subpoena charges that the jury is being used in an attempt to "destroy the crime commission." It also charges that Garrison and O'Hara both have publicly stated personal animosity toward the MCC.

The motion to quash is based on the contention, first, that revelation of contributors and members of the MCC would deter future support of the commission. The motion alleges that if revealed, these members can "reasonably fear retribution."

The motion also states that if the MCC is forced to reveal the identities of confidential informants, the lives of these informants would be in danger.

Arguments on the motion to quash were scheduled this afternoon.

The attorneys for the Crime Commission held that disclosures of identities of informers of the Metropolitan Crime Commission of New Orleans is "violative of the rights of movers as protected by the First Amendment of the United States Constitution, and would effectively destroy the operation of the commission in its fight to improve law enforcement and administration of justice.

"Alternatively, movers aver that in view of the avowed purpose of the request for subpoenas duces tecum to investigate the Metropolitan Crime Commission of New Orleans Inc. and the publicly-stated intention of the legal advisers of the Grand Jury to destroy the Metropolitan Crime Commission, then there is no legitimate purpose in law to seek the names of informers of the commission, and the attempt to receive this information is violative of the constitutional rights of the Metropolitan Crime Commission."

IN THEIR MEMORANDUM in support of their motion to dismiss the subpoenas, the attorneys pointed out that the subpoenas call for records disclosing information with regard to informers of the MCC.

"It is literally impossible to comply with the requirements of Paragraph 1 of the subpoenas," the three lawyers contended. "Apart from not stating whose records are being subpoenaed or limiting the documents called for to any particular organization or persons or groups, the language of Paragraph 1 is hopelessly vague in a number of other respects.

"Apparently, the movers are expected to formulate their own definition of what constitutes an informer.

"APPARENTLY, THERE is no restriction as to the subject matters about which information should be given.

"The grand jury, on the advice of the district attorney, has thrown out a tremendous net in the hopes of ensnaring something important without any clear idea of what is being sought."

The grand jury began investigating allegations that organized crime existed in New Orleans following recent articles in Life magazine. Members of the MCC, which has said for years that Orleans Parish was a stronghold for organized crime, have already testified before the jury.