INTERVIEWEE: W. DeVier Pierson
Special Counsel to the President

INTERVIEWER: Dorothy Pierce McSweeny

DATE : March 19, 1969

Mc: This interview is with W. DeVier Pierson, former Special Counsel to President Johnson. Today is Wednesday, March 19, 1969, and it's about 3:15 in the afternoon. We are in Mr. Pierson's offices at 1100 17th Street, NW, Washington, D.C. This is Dorothy Pierce McSweeny.

Mr. Pierson, to begin the interview, I would like to ask you to give me a brief run-down on your career and how you happened to receive a White House appointment.

P: I'm an attorney from Oklahoma. I had been in private practice in Oklahoma City and in business there. In 1965 Mike Monroney asked me to come back to Washington. Mike and I were long-time friends. My wife is related to his wife, so it was a combination of patronage and nepotism, I guess. But I came back as Chief Counsel to the Joint Committee on the Organization of Congress that Senator Monroney chaired and was there for two years until our bill passed the Senate. Just before that time I think my name was brought to the attention of the President and/or members of the White House staff, because I had never met President Johnson until I was asked to come over for an interview. I really didn't know whether I was seeing him then, but I did see him one Saturday and that was my first meeting with him and resulted in a request to join his staff.

Mc: What was the date of the meeting?

P: I frankly don't know. It must have been February of 1967 because I was appointed on March 18. I remember that immediately following the

meeting that people all over the country started getting inquiries from the FBI, which let me know that something was up.

Mc: What did you discuss in this first meeting with the President?

P: Of course, our joint friendship with Senator Monroney--and then President Johnson and Senator Kerr from Oklahoma were great friends, and we talked about Senator Kerr and the Kerr family. I knew all of the Kerr boys--still do, know them well. The President told me of his admiration for the Senator and for Mike and how this gave the Oklahomans a fairly good rating with him. He told me he expected a lot of his staff. He thought he gave them important things to do and regarded them as his eyes and ears. The story is you can never say "no" to a President. He didn't even ask me. He just assumed that if he said "yes," I would.

I remember when I came home that night. The meeting had been scheduled for about 1:00 o'clock in the afternoon, and he got to me about 7:00 instead. It was a Saturday afternoon, and the family knew what was up. So I talked about the meeting and my wife asked me what my initial impression of him was. I said my first impression was that he was a much bigger man, much more imposing man, in person than he was in his pictures even, which show him to be a big man. But-- And then we talked on and on about it, and months later I asked my son if he would like to go into the White House and meet the President. He was 8 at the time. He said "No, not on your life."

"Why not."

He said, "Well, Daddy, if he looked like a big man to you, imagine how big he would look to me." And he remembered it all these months. But that was my first impression.

Mc: How did he describe the position to you at that time?

P: He didn't, and I didn't know what it would be. I knew there had been some shuffling around on the staff. Bill Moyers had just left the staff. Harry McPherson was the first contact point I had, and I functioned initially as Harry's deputy or took over some of the chores that he had been doing. Over the months Harry and I tended to go our separate ways because he took on so much of the major speech writing. He wrote all the big speeches and edited all the others. Consequently, he had less time than he had had before for substantive problems and I shouldered some of that job.

Mc: Could you begin by telling me just about what your activities were in this position, how they changed initially and towards the end.

P: They changed a good deal. The first area that I did a lot of work on, and I think it was the old story of nature abhorring a vacuum, was in agriculture. There really hadn't been anyone on the White House staff that had looked hard at the farm programs--I think just for a lack of time. The President was very interested and very frustrated by farm programs. We kept spending more money but farm income kept going down. He had a rural background. He said on many occasions when he would become irritated or frustrated with the hippies or the draft dodgers, that a good rural boy could always be depended on to pull his weight. So he had a real affinity for rural people, but he was never satisfied that our programs were reaching them. So he encouraged me to get involved and I spent a good deal of time with Orville Freeman and John Schnitker and others at the Department and became the listening post back and forth on farm programs.

There was always a good deal of disagreement between the Department and Budget Bureau and the Council of Economic Advisors on our farm programs. The Budget Bureau and CEA have a historic bias against the

programs on the basis that they're inefficient subsidies, and the President was very torn by his economic advisors on one hand and Secretary Freeman, usually joined by the Vice President, on the other hand. So I found myself comparing arguments and holding meetings with them and then, meetings with them and the President.

So I really got acquainted with the President on farm programs which is, I think, ironic because I had no agricultural background. The President had noted on my biography that I was born in Pawhuska, Oklahoma. I think he felt that that was the closest thing he had to a farmer on his staff. I moved to Oklahoma City when I was two, never lived on a farm or in a rural area. I think he would have been horrified if he knew how little I knew when I started.

Mc: Did you continue in this area?

P: Yes--and all the way through, although we did a good deal more in 1967 in thinking through farm programs, programs for rural America up to and including (interrupted for telephone call). We devoted a lot of time in 1967 to those programs. We looked for programs to create an urban-rural balance to stop the migration of rural people to the cities piling up in the ghettos. We looked for opportunities for higher farm income, and the President devoted a good deal of personal time to the preparation of a message on agriculture that was sent up in February of 1968. With the exception of some congressional follow-up, that was really the high-water mark of the activity and he didn't spend a lot of time on farm programs then during 1968. Consequently, I didn't except that we had a very wild and woolly time on the farm bill itself when it was signed. The President had asked for a permanent authority of the basic commodity programs; and Congress rejected permanent authority, rejected even a four-year bill as the 1965 Act had provided, and only provided one-year

authority. The President was very unhappy about this and concluded that he'd just veto the bill, which would have sent every major farm organization that had supported our policies through the roof. Secretary Freeman and the Vice President and I all felt that it would have been a terrible mistake. The poor Vice President was in the middle of his Presidential campaign, and it would have put him in terrible shape with the farm groups providing him the most support.

So the President left to see President Truman on the last day where he had to either sign it or veto it, and I prepared a signing message and a veto message. He took them both with him, with the bill, and said he still thought he would veto it. We had everyone waiting up there to see which he did before midnight, so we could make a release and make arrangements to have the bill go to the Federal Register one way or the other--or rather back to the Congress. He called twice from Air Force One, still saying he was going to veto it; saw President Truman; came back to Air Force One; called back, and that was about 10:00 o'clock at night; and said "Well, you think I ought to sign this damned thing?"

I said "Yes, I sure think you should."

He said, "Well, I've already signed it. You can put out the release. And call the Vice President and tell him." We reached the Vice President on the campaign trail and he was mighty relieved. And that's about the extent of it in agriculture.

My work in agriculture led me into a good deal of time in the trade field. This was an area that President Johnson felt very keenly about. He was a strong free trader. I think it was the Populist bias against restrictions on the free flow of goods. He believed very strongly in free trade and had a magnificent record in the area. The Kennedy

Round came to a successful completion during his administration. No sooner had it been completed than the pressures became very strong for quota legislation in a number of areas. There was something of a backlash to the Kennedy Round which had lowered tariffs and which had kept industries back from any meaningful Congressional effort to restrict imports. But then the textile industry came in and the steel industry came in and others--shoes, and electronics--and I think at one time 97 of the 100 Senators had their name on one or more quota bills. Well, he made a very vigorous defense of free trade, made a speech that surprised everyone when he said extemporaneously that there was never going to be a quota bill signed by a President during his administration, a clear indication that he would veto quota legislation.

The textile people were successful in getting a rider limiting textile imports tacked onto the tax bill. Of course, we had to have the tax bill, so they felt they were sitting pretty. They went to work on Wilbur Mills in conference because it was a Senate rider. So it went into conference and Chairman Mills in his inimitable fashion played footsie with them all the way through the conference. The local attorney for the textile interests was a very close friend of mine, and he was marshalling the troops for this rider and I was marshalling the government troops to try to get them to knock the rider out, and he saw me at 5:00 o'clock one afternoon to say that they had gotten a firm commitment from Mills to leave the rider in and that if we hadn't been so foolish and had compromised on it that we wouldn't have been stuck with it. Well the President had said, "no compromise, we'll just fight it out and depend on Wilbur." And at 7:00 o'clock Mills took it out, asked the Senate to recede. They did, and there was no textile quota.

So the trade fight was something that we also sent a message up

in 1968. I had many meetings with the President on basic trade problems and on rather routine trade matters. He was interested in the reports of the Tariff Commission on a wide variety of products. I remember one long session that started at lunch in the Mansion and went through sitting by his bed when he was getting ready to go down for his afternoon nap, where he went through whether he ought to approve an increase in tariffs for a wool product made in a little town in Italy. This was a strange thing for a President of the United States to spend a whole afternoon worrying about. But he did. And one of his characteristics was, as is often reported, an interest in everything going on in the government. This was certainly so in that case.

My own contacts with the President were far more frequent as the time went on. I think the watershed in my own relationship with him was right after the turn of the year in January of 1968. Up to that time I had done mostly routine matters except for a good deal of work in the agricultural and trade fields.

But he was very upset by the draft system. And as you know, he proposed legislation to modify the draft system and Congress had failed to approve it. So he was stuck with a bad system, and he knew it. The issue was whether we ought to go ahead and let the system operate according to the law on the oldest first, which meant that an enormous number of boys were going to come out of college and after they got their degree were going to be inducted. The Army could see an Army of Ph.D's and what this might mean from the standpoint of student protest and questioned whether these boys would be good soldiers or not. The President had a strong bias against providing a draft shelter for college graduates. Again, I think, this represented some of the Populist streak again, that you didn't favor those who were wealthy enough to

use student deferments to get through college and then give them a break on the draft. That if anything you ought to be going against them on it. So there was much division within the government on whether we ought to let that happen or whether we ought to seek a system that took them proportionately at each age group from 18 to 25, which would have meant that only about a fifth of the college graduates that normally would be called otherwise would be called. Three programs were put before him and he rejected each one. It was a determination that had to be made by the National Security Council, but as a practical matter he was going to set the standards for it.

So finally he threw up his hands and he said "Well, I want to hear all of the issues raised on this so I'm going to hold a debate on it." He called me and told me that he wanted me to debate the present system. Joe Califano and Larry Levinson were to debate the changes, which they supported anyway. The judges were--well the President was the judge--but the spectators were the President and Clark Clifford and some Texas friend of the President's, a college professor down there, I believe. I didn't know him and don't remember his name. But we debated for about two hours one evening in the Oval Office, with charts and argument and so forth. I used to be an old high school and college debater. Then he peppered us with questions and I think had a thoroughly enjoyable time. From my standpoint, that was the most intimate exposure I had had to the Johnson operation and I had a much closer relationship to the President from that time forward. He called on me to do a much wider variety of things from then on.

Mc: Could you tell me a little more about this debate? Had he ever used that format before?

P: Yes. Yes he has. It's my understanding that he has at least. It's

just a mind-stretching thing. For one thing it forces those who are proponents of a view to organize their own thoughts, just as the memoranda that we do to him do. You know he's a great paper man. He want you to get it down on paper. He wants you to organize your own thoughts before you start bringing something to him. And I think the debate device was another cut at the same problem. He wanted to hear every argument pro and con, and he thought if he put some people under the gun he would probably get them.

This was before--I believe it was before--I can't remember if it was before or after Clark Clifford had been named Secretary of Defense. I know it was before he took office.

Mc: And you were in the position of supporting the present system?

P: I supported what was going to happen under the present system and that was a high proportion, eventually, of college graduate draftees; which is probably reason enough to restrict the use of this tape for a few years! And the fact of the matter was, the President's instincts turned out to be right on this. Everyone really opposed him on it, on the basis that you just couldn't tolerate having that many college graduates coming into the service. All of the graduate school groups said it's going to be the death of the graduate school. Graduate school enrollments will drop about 40 percent if you do it. Well, as it turned out graduate school enrollments went up 10 percent this last year, in part because draft calls weren't as high, and in part because there just wasn't as high a ratio of college students that would be eligible for the draft as they'd all said. This had been his gut feeling; it was all the experts versus Lyndon Johnson in fact. He stuck to his guns, and was right about it.

I think one of the things that President Johnson was very good

about on this was that he had very solid instincts. I didn't see all the war and peace decisions, but on each day's problems as they came along he had the instincts of a man who had seen it all happen before and had been in Washington for 30 years. When he was getting a snow job on something, he was usually able to figure it out. I think that was one of his assets in the Presidency, that he did have an instinct to cut through the froth and get to the issues that made the decision go.

Mc: Mr. Pierson, from your first impressions through when you grew to know him better, did you have in changes in your opinion of him, or reflections on him, or thoughts about him.

P: When I first came there I was scared to death of him because I was surprised to have been asked to come. Because I didn't know him, I didn't have any background of working politically for him in my own state. As a matter of fact, I had worked for Jack Kennedy in 1960 for no better reason than the fact that he came to Oklahoma in 1957-1958 and held some meetings there and got small groups of people together and said, "I'm going to run for President; will you work for me?" So I had had that experience. But all of my political activities in Oklahoma had really been directed toward Mike Monroney and local candidates. So I had neither a political nor a personal relationship with him. So I was uneasy around him. He was obviously not sure of me, and I sure as hell wasn't sure of him!

As I spent a lot of time with him, yes, my opinions did change. He was a much more human person than I anticipated. He had fierce emotions in every way, and I'm sure you've heard this before. He was terribly loyal to his friends. He would do a lot for you, and he expected a lot from you. Loyalty was a characteristic that he holds very

high. And that can be good or bad, you know. He could, I think, demand loyalty and continuing adherence to a particular course of action when the right thing to do would be to say, "I no longer believe in it." I'm not talking about Viet Nam, incidentally. I'm just talking as an abstract proposition. He liked you to stick to your guns. But I just found him a much warmer man than I had anticipated. The chewing-outs were far less frequent than had been so popularly billed, you know, that my experience, well, without question it was a very pleasant experience with him. I have great continuing affection for him out of that staff experience, anyway. I go away liking him as a person. I found him pleasant to be with, certainly a man's man, you know. The stories of some of the hair-curling conversations are absolutely accurate.

Mc: Mr. Pierson, how much authority did you have in dealing with the various departments that you talked about--and agencies?

P: He gave you a good deal of authority. He would sometimes say, and often say in Cabinet meetings, that no one is to stand between you and me, but that wasn't right. You had authority because you had access. Even in the beginning on the farm programs, for example, when I'd been there only a few months, any memorandum from Secretary Freeman to the President went to me. And any decision that was coming up that was going to involve an interplay between several departments in that area, would normally start with a meeting with either the Cabinet Officer or maybe the Undersecretary involved with me. Then all of the papers would be put together, and you would send a cover memo in that summarized the issues and asked him whether he wanted to have a meeting on it. He always insisted that you make a recommendation at the end, make your own recommendation. So your job was one to be very objective

about what everybody else had said and weigh the pros and cons and then come down with your own recommendation.

You know, you are inherently powerful if you put the last word in and if you're likely to be the person he's going to talk to in person about it. That's the power of White House staff. You have no authority standing on your own, but because of that access and because you do speak for the President often in that he tells you to do specific things, well, you do have a good deal of authority.

In the trade area, the President simply wasn't willing, or at least didn't develop a personal relationship with his Special Representative for Trade Negotiations, who was Ambassador Roth all of the time I was there. And although he was in the Executive Office of the President, that office was treated as an office. Ambassador Roth was never really treated as being a member of the White House Staff. So every time a trade problem would come up you would have--as you do right now incidentially, there's a big dog fight on for who gets the trade stick in the Nixon Administration. But Ambassador Roth and the State Department and the Commerce Department, Labor, Treasury would all have views on a trade issue, and it would be a matter of getting together with them. Sometimes they'd all insist on sending their views to the President, so they'd send their views to the President. You'd collate them, put them together with a summary, and send them in. If he was enamored enough with the subject he might hold a meeting himself, but usually he wouldn't. So when you worked for him in looking after either an area or a department, or both, you did have a good deal of authority. When I left I was looking at most of the things that came out of the trade field and Interior and Commerce and Agriculture and a number of the regulatory commissions. So, you know, you get active.

Mc: Did you feel while working on the agricultural problems that Mr. Johnson spent a good deal of time in terms of the demands on this and in efforts to get bills through Congress?

P: He spent a good deal of time--a fair amount of time in 1967 and in early 1968, and not much after that. I take it that he spent a good deal of time in 1965, when the major farm bill was passed, but I wasn't in the White House then so I don't know. I would guess that Secretary Freeman or Charlie Murphy could give you a better run-down on that--not a lot of time as compared with foreign affairs or the major welfare programs but quite a bit of time. I would guess considerably more time than President Kennedy did because he had a natural feeling for the area. He cared about this area and the things he cared about he naturally spent some time on.

Mc: Did you run across many occasions when Secretary Freeman felt staff intermediaries were not getting his message through?

P: I'd let him speak to that. I had more trouble with other cabinet officers than with Secretary Freeman on that. I had, I believe, a very warm personal relationship with Secretary Freeman. I think his feeling was that, while there certainly must have been times when I was an impediment to to him, more often I was an avenue opening up the President's thinking on it and making certain that it got into the President. So I'd be curious to know his views of that, but I don't think that he would feel that I was an obstacle to access. I think I helped him.

Mc: Were you aware of what Mr. Johnson felt of Secretary Freeman? He was a Kennedy appointment.

P: Yes, but I think he and/or Dean Rusk would have been his favorite Kennedy appointees. I think there was a very good relationship from

beginning to end between the two of them. He admired Orville because Orville was a fighter, tough--a tough marine, lost part of his jaw in Bougainville and willing to slug it out for the things that he believed in and didn't take guff off people. These were all attributes that President Johnson liked. He thought he was smart and he always thought he was loyal to Lyndon Johnson. He didn't think he was playing it cute behind his back. He thought he was getting the straight story from him. Unless there's just a lot I don't know--and I don't think there is between those two men--they had an exceptionally good relationship. And I don't think that President Johnson ever regretted having Orville Freeman as his Secretary of Agriculture during his entire Administration. He realized that it was one of the most difficult jobs in government, and one of the most politically lethal jobs in government. To be Secretary of Agriculture for eight years is one of the most fantastic achievements that's ever occurred in Washington.

Mc: I think I was asking you a question based on the fact that there were rumors in 1964 and 1965, prior to your coming to the White House--

P: Yes. Maybe they just cemented their relationship by then. You know you have to take what I say in the context of being a "Johnny Come Lately" on it. I really just caught the tag end of the Johnson years, but I did see him go out with all of these people. I think whatever earlier problems they had were certainly gone by the beginning of 1967.

Mc: You mentioned in talking about dealing with Cabinet level or agency heads other areas where you had more friction or had more problem with people feeling that you were perhaps an impediment to the access to the President. Would you tell me a little bit about this?

P: Yes. I think that Secretary Udall resented the staff arrangement that was foisted off on him by the President. Secretary Udall is very able

and very aggressive in the matters pertaining to his department and proceeds on the theory if he's made a decision that this is right, that it ought to be all down hill in getting the President to go along. And because they thought alike on so many things--both being ardent conservationists and because Mrs. Johnson was such an ardent conservationist--well, that was normally the case. But in the few instances where the President had different views or at least was hesitant about a problem, at least in the last year of his Administration, it fell my lot to be something of an intermediary and to check out these proposals and get other viewpoints on them and in some instances to slow Stew down. I think the President didn't like to say "no" to him, and so he had me say "no" to him a few times and it was always difficult. I think that Stew felt that the President had placed an insulation between them that he didn't like. I say that in very general terms because on many, many matters Secretary Udall and I had a very fine relationship, as with the others, and I thought it was my job--I think it's the job of any who's in a staff capacity--I tried to see that these things got into the President. I tried to be an avenue of access and not a road block for him, but I'm sure I wasn't a hundred percent successful with him.

Mc: What were some of the specifics, or could you give any? What are some of the issues where this occurred?

P: Well, it was an open secret that the last week of the Johnson Administration--have you interviewed Stew yet, incidentally?

Mc: I haven't.

P: was very rough. And I suppose this ought to be part of the Oral History of the Johnson years. Secretary Udall proposed, gee last summer, in very general terms, that he look at the possibility of the

President using the Antiquities Act. This is an act first used by Teddy Roosevelt, in which the President has authority to take in national monuments. A national monument doesn't just mean a pile of rocks because, as the court has interpreted it, the President can take almost any public land in and in effect hold it from any other purpose other than conservation uses. And Presidents over the years have used the act in varying degrees.

So the President told Secretary Udall to go forward with making a specific proposal for the use of the Act, and boy, did he! He came back in December with a proposal to take in, I guess, it was just over, or under, 9 million acres of public land, some of it in the Southwest and the largest tracts being in Alaska. The President was very ambivalent about it. He liked the idea of making this kind of addition to the National Park System. On the other hand he was concerned as to whether it was a proper use of the Act and as to what the congressional response would be, particularly in the context of the congressional response as it might affect other conservation projects of the Johnson years, in which he took immense pride.

So we had a meeting in the Cabinet room with Udall and I guess Sam Hughes from the Budget Bureau, and the President asked Clark Clifford to come--and Freeman may have been there because some of the land was national forest land. I'm really not certain. But Udall was the prime mover and he--and Mrs. Johnson came for some of the meeting--and he laid out, you know, with a lot of charts, pictures, viewgraphs, and everything, exactly what he had in mind. The President said, "I'm not ready to make a decision on this" went around the table, asking for views. Clifford was very negative, thought that it was not a proper use of the Act, that the President would be particularly criticized in

view of his overall transition policy, which was not to take 11th-hour action that the next Admistration would have to live with unless absolutely necessary. He felt it was inconsistent with that and stated it.

Stew, of course, pled the other side of the case very strongly. It was left there on the basis that I would work with Secretary Udall in preparing the papers on it, that we would forward proposed proclamations to the Justice Department so that we could go. At that time the idea was that maybe this would be a Christmas present to the nation, and that he would sign the proclamations toward Christmas time.

Then as you may recall he went into the hospital for a few days, just before Christmas, felt lousy, could barely talk. Finally, after we talked a couple of times he said, "I'm just not ready to go on this. Tell Stew that we'll look at it when Congress comes back so that we can make complete Congressional checks on it and hold it until the first week of January. And I did, and Stew was very disappointed, but said, "Okay."

Then when Congress came back I told Stew that the President wanted very comprehensive Congressional checks on this. He was eager to see how we might be able to pin down Hickel, because Hickel being Governor of Alaska was very much involved in all these lands. Through a rather complicated procedure there was a three-way switch as to public lands, public lands reserved for native rights, public lands taken by the State of Alaska for State of Alaska use, and it's rather confusing.

So the President did a great job on Hickel when he came for this series of sessions he had with all the Cabinet designatees. And Hickel was fairly good about it. The President said, "I am looking at the possibility of taking some lands," didn't go into the details, and said, "I think that it has a lot of merit, and I hope you wouldn't have a lot

of trouble with it if I did." Hickel said, of course, he'd have to know more about it, but that he probably wouldn't cause a lot of trouble. Then I called Senator Jackson and got some questions planted with Jackson during the Hickel confirmation hearings where he was running very scared anyway, you know, and was eager to please. So Jackson asked him if he would have any trouble with this, and he said, "No, he was sure that he wouldn't," so it looked pretty good for the project.

Then the time was running on, and it was now the last week of the Administration. The Justice Department had reported that under the leading Supreme Court case on this that they could not look behind the President's proclamation and that if he wanted to take all these acres in, there was nothing they could do except that Congress could pass a law to cut it back down. But they did indicate it was stretching the law pretty far to do it.

One night the President called me and said, "I'm not satisfied that the Congressional checks are the way that Stew has said. You call Wayne Aspinall, " who was the Chairman of the House Interior Committee. Stew had reported to the President that Aspinal would prefer that this be done by legislation, but it would be unlikely that he would cause any major commotion.

So I called Aspinall and told him the President had asked me to, and said, "Now Mr. Chariman, I understand you would prefer that this action to taken by legislation."

Why he just blew up. He said, "What do you mean prefer; it's the only way it can be done."

I said, "No, it can be done this way."

He said, "Is that what you've been told my view was?"

I said, "Well, that was my understanding."

He said, "Well, I told the people from the Department of Interior

that if the President took this action that I would see that it never got a penny for the maintenance of these lands and that I'll introduce legislation to repeal the Antiquities Act."

Well I reported this to the President, and I must say he was very distressed. I think he was distressed, one, because he faced this kind of reaction from Aspinall and, two, because it made him wonder if he had the story on any of this. He was at that point very unhappy with Secretary Udall, because he was running out of time and he had to do something one way or the other. So we set a meeting for Saturday, the 18th of January, to meet with the President to discuss the property case by case and to determine whether we were going to go on this project. By this time Stew--this was the biggest thing in his life--and he was very, very involved in it.

The day before the Saturday meeting I was sent a copy of the press release from the Department of Interior, announcing the action for the following day. I called Stew up and I said, "We don't have a decision on this."

He said, "Yes, that's just prepared in anticipation, if the President does decide to act. They're being held and none of them will go out." That morning he called me up and said "I'm embarrassed to say that a few of the press releases seem to have gotten out, and I know Bill Blair of the New York Times has the story."

I said, "Stew, I'm sorry but the President still hasn't made a decision. You will have to ask them not to print it."

He said he would. So then we had the meeting scheduled for Saturday afternoon at 1:00 o'clock, and the President could not meet. We sat outside his room for awhile and then went back down to my office, which was in the basement of the West Wing, and waited some more.

Finally the President called and said, "We'll have to meet later on in the afternoon." So Stew went back over to his office to await this, by this time very unhappy. Finally the President called and said, "I cannot focus on this today. I want to wait until tomorrow--I'll read the case-by-case study tonight. You and Stew come after church tomorrow and we'll go over these."

Well, I called Stew and told him this and he absolutely erupted and said, "I've just had it. He has everything that he needs to know from me on it. He can just do whatever he want to do." And hung up.

About five minutes later the President called and said, "Have you seen the ticker?"

"No." And the story was coming across the ticker that the action had been taken!

He hung up, and I think he called Stew, and they had unpleasant words about it, I'm sure. But he told me to call him and I called him and said, "Stew, I don't know how this happened on the ticker." The Secretary was very wrought-up.

He said, "Well, it's a mistake; it's a mistake, but I'm fed up anyway."

I said, "Well, the President would like us to meet with him tomorrow after church," and he said, "No, I'm not meeting with him. You just decide."

And that's the last time I've ever talked to Secretary Udall. The next day when we tried to meet he was out hiking. We did not meet; he did retract the story, pulled the story off the wires. Believe it or not, I spent about an hour in the President's bedroom Monday morning, the 20th of January, while the President was putting on his morning suit for the inaugural ceremonies, going over these cases one last time while he was deciding whether or not he would sign any or all of them. He finally decided

that he would sign the smaller ones and not sign the larger ones. We released it that morning, as a White House news release. And, well, it was just a very bloody and unpleasant time. Now you've heard more about it than you really wanted to know.

Mc: Absolutely not. I'm wondering if you can give me any other times when these areas dealt with your relations with Cabinet Level or agency heads, such as in Commerce, or any of the regulatory commissions?

P: No, I think that was the stormiest session that I ever had with a Cabinet officer. I guess the most whimsical thing was the Abe Fortas thing, where I had prepared the legislation that provided Secret Service protection for presidential candidates. I ought to go back to say, because of course the first part of this is far from whimsical, but we had worked on the possibility of legislation to protect presidential candidates when it became clear we had a very bad year in front of us. There had been some indication from Congress that they would prefer not to try to do this until the convention and then they would support legislation to provide Secret Service protection for the nominees. But I had prepared some draft legislation on it, and one morning about 6:00 o'clock the phone rang, and it was the President. He said, "Where is that legislation?--the protection by Secret Service for candidates--"

I said, "Well, I've got it in my office."

He said, "Well, bring it to me in the bedroom right now," and hung up.

So I called a car and got in the shower and was putting on my clothes and my son came running in and said "Senator Kennedy's been shot." And he had turned on the TV early.

So I got to the bedroom about 7:30 and the President had already

ordered Secret Service protection to all candidates. But we looked at the legislation, and I took it up there that morning with Joe Barr, the then-Undersecretary of Treasury. We took it first to the Senate, then to the House, and got action--well, we got action within 24 hours from both houses to legitimize the action the President had taken. We got the legislation tacked on as a rider to the Appropriations Bill, although it was actually legislative language.

You know, it was just a frightful day and ended up that night--about 10 o'clock at night the President had this message to go on television with. He didn't know whether to go on, because the Secret Service agents in Los Angeles were calling back here saying that Senator Kennedy was near death, going to die any minute. The President felt he should not go on TV until after he had died, if this was the case.

Finally about 10 o'clock he had not died, so as you recall, the President did go on television. So I was with him immediately after the TV broadcast, because we had helped make up a committee report and floor language to support the legislation and he was reviewing that. So that was the one wild day on the preparation of the legislation.

Well, when the Fortas confirmation came up, and they began digging into the various things they objected to Justice Fortas on, one of them was participation in White House activities. So Senator Allott announced that he had information that Justice Fortas prepared legislation for the White House--a highly improper activity. None of us knew what in the world he was talking about. So I walked by the ticker when Allott was testifying, and here it comes over the ticker that they find that he had drafted the legislation--or that Senator Allott said

that in connection with the looking at the legislation on protection for Presidential candidates that Joe Barr had gone to the phone and talked to the White House and had come back to Senator Allott and said "Senator, this language has been cleared with DeVier Pierson and Abe Fortas. They can live with it, so go ahead and pass it" or something to that effect.

Well, the fact of the matter was that as of that date, I had never met Abe Fortas! And if he looked at that language, God knows when he did. But this became a major item, you know, and Barr and Clark Clifford and I all received letter requests to come testify in the Fortas hearings and all of us declined and asserted executive privilege. If ever there was a tempest in a teapot, that was it. And the President, while there was very little he found to laugh about in the Fortas proceedings, did get a great laugh out of the fact that he had been forced to assert executive privilege for someone who had never met Abe Fortas in connection with the confirmation!

Mc: How early did you begin working on the legislation for the protection of the presidential candidates?

P: Oh, I'd say two or three weeks before Senator Kennedy was shot.

Mc: Was there any reluctance or resistance on the part of the candidates to accept this? Did they voice any opinion on it?

P: No, I'm not sure there ever was any conversation with them about it. The Vice President already had the protection. I don't know that there was ever any conversation with Kennedy or McCarthy or Nixon or Rockefeller or the others.

The question was really the Congressional attitude on it. I think there was a feeling on a part of the legislative committees concerned that this shouldn't just be stuck in as appropriations language, but

that the committee ought to consider what the total scope of Secret Service protection should be. You know, it was hard, very hard, to know where to draw the line on it. You always get a rash of minor party candidates. Are they entitled to it? You recall Dick Gregory asked for it. So, you know, it's one of those terrible, terrible things that in order to get past all the legal niceties of it, you know, it took an act like Senator Kennedy's assassination. My guess is there's always going to be some kind of protection for major presidential candidates from now on. I don't know. You'd have never thought so. You'd never have thought that you'd take it any farther than the nominee, but maybe we always will now, I don't know.

The other thing that I think might be of interest to you, and I think is of some historical significance, are the events involving the President and Bob Kennedy just prior to the Senator Kennedy's becoming a candidate and the question of the Viet Nam Commission. I had main--tained a friendship with Ted Sorenson over the years and he came in to see me on some rather routine matters involving a client. As I recall, it was an international route case involving one of his clients. And as we finished I said, "You know, I wish we could stay in touch. There is all of this continuing friction with the President and Senator Kennedy and so forth," and at this time all of us, Ted and I, certainly thought that President Johnson was going to be a candidate again. My real intent was to do whatever I could to get some harmony there with a view toward the convention and the race. Of course, Senator Kennedy at that time was taking that same position, that he would not oppose President Johnson. So we said, "Why don't we get together for a lunch?" So Ted and John Criswell and I had lunch and talked about politics and the New Hampshire primary. This was all pre-New Hampshire. Then Ted

called me and said, "You know, what I would like to do very much is have a chance to visit with the President sometimes."

I said, "Well fine, I'm sure he'd be happy to see you."

I checked with him and he said, "Yes, I'd like to see Ted."

So I called him back, arranged a time, and he came to the White House. We had lunch and then he went into see the President. I did not go with him, just the two of them were there. But Ted evidently took the opportunity to express his own views as to some alternatives to Viet Nam, including the possible use of an independent commission to review policy there. So far as I am able to determine, it was really Ted Sorenson speaking, not a representative of Bob Kennedy speaking.

Well, we were really overtaken by events then, because that was just the day before the New Hampshire primary. Ted had been one of those urging Bob to stay out of the race. In fact, I think the most prominently identified people doing so were Ted Sorenson and Ted Kennedy. Ted called me the night of the New Hampshire primary and said, "Well, I don't know what to say now. I still want Bob to stay out, but I'm about the only one left that does." Then he said, "I'd like to help develop something so that he won't feel that it's necessary for him to come in." He said, "Senator Kennedy is very interested in the concept of a Commission on Viet Nam."

I said, "Who ought to be on this Commission?" and we talked about all these names and things.

Then there were a flurry of conversations where I'd call the President and say, "I think this is really Bob Kennedy calling through Ted and saying this is what he wants," and then the President said, "I think they ought to go see Clark Clifford, " who had taken over as Secretary of Defense. Ted called me back said, "Bob and I are

going to see Clark Clifford and make this proposal" and then he called me back after he had been to see Clifford and very emotional and said, "It just won't work, it won't work. Secretary Clifford said we can't do it. And Bob is certainly going to jump in now."

I said, "Where are you?"

He said, "Well, I'm in his office."

I said, "Let me call you back." So I called the President and I said, "You probably already had a report from Secretary Clifford on this, and I want to tell you what Ted Sorenson has said," and I related the conversation.

He said, "Well, you will have to call him back and tell him that I cannot agree to appointing a commission particularly where the apparent reason for doing so is to keep someone out of a presidential race, that I couldn't agree to a public commission whose views would then rival the government's views as far as a public policy issue is concerned. I would have no way to be the Chief Executive officer of this country if I did that. Tell him that I am willing and able and desirous of bringing all of these people in and hearing their views as I would hear any informed person's views to determine if there is something we're overlooking, some basic mistake that we're making here."

I think that's very interesting because, you know--he did this, you know. He did bring many of these people in as a part of the Viet Nam review that led to the March 31st statement.

So I called Ted back and ticked off all of these items. He said, "That just won't work." He said, "That doesn't give any promise because it isn't public. There wouldn't be any signal of a change of policy. So Bobby just doesn't believe that he'll covertly do these thing. He thinks it has to be public. It is the issue of Viet Nam

with him. It isn't personal ambition to get in this political race," and he swore that to the end of the conversation.

But he said, "Now I'm confident that he will get in the race unless you can give me any more than that."

I said, "That's all I can give you." And that was the end of the conversation, and, of course, he announced the next morning.

And I have talked with Ted several times since then, including once after the assassination and, you know, we've thought of what-might-have-been--

Mc: How did this information about the commission get into the newspapers?

P: Not from me--I think from Senator Kennedy's people, although how George Christian responded or initiated, I don't know. Of course, he's a storehouse on all of these things. I talked with George about this after the fact, so he was aware of this. But the honest answer is, I don't know how much of it was White House, how much of it was Kennedy. The reason I think it was Kennedy was because the statement was made that the President had sought out a meeting with Ted Sorenson to have this matter developed. That simply wasn't the case unless Ted treated my calling him back to set a specific time, as seeking out the meeting. But he had called me and said, "I'd like to have this meeting," which, you know, was a generous and friendly act as far as I was concerned. And Ted Sorenson was one who always tried to be a peacemaker on this thing, up to and including writing a very, very nice letter to the President as he left office.

Mc: I was recalling the incident, and as I remember Senator Kennedy was in Paris when this sort of broke--was somewhere out of the country.

P: No--I don't-- I think you're confusing that with the trip that he made to Paris where he brought back the peace feeler and they had their famous meeting.

Mc: You didn't have any involvement in that one did you?

P: No, I didn't but I think that the President thought maybe that I was his bridge to the Kennedy's after this one session, because I left to take a week's trip to the Virgin Islands right at the time he made his March 31st announcement. Of course, then Bobby asked for an audience with the President and I had gone--and was gone. My office called me down there, and said you're going to be unhappy now because the President has called and wants you to sit in on the meeting he's going to have with Bobby Kennedy. I thought, "Boy that's one meeting I would have loved to attended." But I didn't, I didn't. But I think that is one of the memorable experiences from my standpoint. I really think that there was a chance in those 24 or 48 hours, that if they could have communicated so there had been creditibility on both sides that maybe and only maybe--I think I'm in the minority in believing this--but maybe the President would have brought Bobby in to what he really was beginning to mull through right there on Viet Nam with a number of the people proposed for the commission. And you know, maybe then Bobby wouldn't have made his move. Now the majority school of thought is that after New Hampshire it was "go baby," but--

Mc: Did you express those views to the President yourself?

P: Yes, yes, I did.

Mc: Didn't this appear--well, it's an ugly term to use but it is, and it did come out in the paper as being considered sort of a blackmailing attempt because of the President's current unpopularity.

P: Yes. And certainly subject to that interpretation. I'm not a good enough judge on that issue. I just know that it was such an important thing that, you know, you just wanted to exhaust every avenue. Ted and I were sort of wringing each other out over the phone figuring if

there was anything else that could be done, and there wasn't.

Mc: You have done some of your own answers without my asking any questions. Let me ask you, are there any other really significant things that come to mind. I have a whole slue of questions, too,--

P: Oh, not really. You know, my last year there, just like so many others I just did an awful lot of different things as anyone on the staff would and most of them dealt with governmental substantive problems in the departments and I think would be considered fairly routine matters. I searched to think of the things which would throw any light on Lyndon Johnson in a unique way, and I don't know that I have any more that would do that.

Mc: Did you work on anything to do with any reorganizations in, say, Commerce Department?

P: No, I didn't work on the Commerce/Labor merger. I was the liasion man to the task force on communications policy that involved some of the Commerce problems, but no governmental reorganization.

Mc: Did you have any capactiy in doing speech writing?

P: The President told me one time that all my speeches sounded like memoranda. I wrote a few speeches for him but very few and I'm not a good speech writer. I wrote a couple of trade speeches for him. I wrote a conservation speech, I guess, but I think most of them had to be edited to sound decent. I wrote some messages. I wrote some messages to Congress that were part of the legislative message season, but not speeches.

Mc: Let me just kind of pursue this a minute. In doing writting, did that include writing, by the Executive Orders?

P: Oh, yes, I did some Executive Orders, although they are usually a committee product of an originating agency, cleared through Justice Department, Budget Bureau and all that. But I did some of that.

Mc: Did you, in writing these speeches, messages, or orders, more or less have to tailor what you wrote to Mr. Johnson? In other words to the man as opposed to writing it--

P: Not in Executive Orders. In the messages you certainly tried to put it in the Johnson style.

Mc: Did you have any guidelines, or just observing what he liked and disliked?

P: Just by-guess and by-gosh. And he was eminently capable of telling you what he liked and disliked. No, no guidelines. Others really did the most of this. I'd say ninety percent of my writing was writing memoranda to him. I have stacks of memoranda and very few speeches to my credit.

Mc: Let me just ask you one other question in this. When you did happen to get into this area, how was it determined that you would do it?

P: Into what area?

Mc: Into writing anything that was--

P: Mostly because it was the area I was working in. I was never asked to write something because of my literary skills, I can assure you. It was because it was an area where I had been carrying the ball and presumably knew something about the subject matter. Then a "word merchant" would take that pitiful product and make something out of it.

Mc: Did you have any sort of legal work for the President?

P: A little, a little, yes. I handled the standards of conduct problems in the White House. I say problems--just determining if there were--you know each office has standards of conduct, conflict of interest things and so forth, and that was very much boiler plate. I handled the executive clemency problems, the Presidential pardons and the like. I did do legal research on a few matters, some of them relating to the

libraries, as a matter of fact. We were very anxious to get a feel of what the position was in various types of government papers going into the library and when they could be made available to the public--the pictures, for example. What were the pictures? Were they government documents, and if so, to what use could they be put? Could the TV networks use them, newspapers, and so forth? So I did a little legal work on that, but the office of legal counsel at the Department of Justice are the real lawyers for the White House. They screened all legal documents for legal sufficiency and, you know, our claim that we had passed on them in a legal way was spurious.

Mc: Did you do any work in the civil rights area?

P: No. Very little, very little.

Mc: Are there some significant or troublesome areas or events that you worked on in this capacity that come to mind?

P: In civil rights?

Mc: Or in any legal capacity.

P: The most troublesome thing I worked on, without question, and one of the last things was the Trans-Pacific Route Case, which is still pending. This was an extremely difficult, sensitive item. It's one that I thought the President should have gotten very good marks on. He was quite careful in the manner that he handled it. He refused to talk to any of the airlines. He refused to talk to any members of Congress about it--

end of tape

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By W. DeVier Pierson

to the

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