

THE WHITE HOUSE,
Washington, D.C., September 16, 1968.

Senator JAMES O. EASTLAND,
Chairman, Senate Committee on the Judiciary,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I have received an invitation from the Chief Counsel of the Senate Judiciary Committee to appear at hearings being held to consider the confirmation of Mr. Justice Fortas as Chief Justice of the United States. I understand that the Committee wishes to interrogate me regarding the drafting of legislation authorizing Secret Service protection for Presidential candidates. As Associate Special Counsel to the President since March of 1967, I have been one of the "immediate staff assistants" provided to the President by law. (3 U.S.C. 105, 106.) It has been firmly established, as a matter of principle and precedents, that members of the President's immediate staff shall not appear before a Congressional committee to testify with respect to the performance of their duties on behalf of the President. This limitation, which has been recognized by the Congress as well as the Executive, is fundamental to our system of government. I must, therefore, respectfully decline the invitation to testify in these hearings.

Sincerely,

W. DEVIER PIERSON,
Associate Special Counsel to the President.

The CHAIRMAN. Senator Allott.

STATEMENT OF HON. GORDON ALLOTT, U.S. SENATOR FROM COLORADO

Senator ALLOTT. Mr. Chairman, and members of the Judiciary Committee, I am Gordon Allott, senior Senator from Colorado.

The CHAIRMAN. Proceed.

Senator ALLOTT Mr. Chairman, and members of the committee, I appear here today voluntarily, at the invitation of one member of the Judiciary Committee. My appearance is occasioned by conjecture, arising out of a press conference I had in Denver, Colo., on August 24. At that time, I was asked, in substance, the basis of my opposition to the confirmation of Justice Fortas as Chief Justice of the U.S. Supreme Court.

My reply, also in substance, was that I had good and valid reasons which I proposed to include in my statement when this matter came up on the floor of the Senate, inasmuch as I had been informed that Mr. Fortas had been involved in the formulating of legislation while a member of the Supreme Court.

Some versions of the story have become confused by the telling and retelling of what I stated at that time.

I appear here to state the facts and circumstances upon which my determination was made, and I think I have an obligation to this committee and to the Senate to do so.

The morning of May 27, a meeting was called of the Subcommittee of Appropriations for Treasury and Post Office. I am a member, but not the ranking member, of that subcommittee. I had been attending the meeting of that subcommittee regularly in working with the chairman, Senator Monroney. It is my recollection that Senator Monroney called me that morning, and I was also informed by the members of the staff as to the subject matter of that hearing. We were to meet in open session on the regular appropriations items and in executive ses-