



BEFORE THE STATE BOARD OF EQUALIZATION  
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of )  
ADA E. WRIGLEY )

Appearances:

For Appellant: Bert A. Lewis and F. Daniel Frost, III  
Attorneys at Law  
For Respondent: Burl D. Lack, Chief Counsel;  
John Warren, Assistant Counsel

O P I N I O N

This appeal is made pursuant to Section 18593 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protests of Ada E. Wrigley to proposed assessments of additional personal income tax in the amounts of \$30,217.56, \$31,379.69, \$33,861.90, \$43,944.26, \$54,357.78 and \$55,808.83 for the Years 1945, 1946, 1947, 1948, 1949, and 1950, respectively.

The single issue to be considered in this appeal is whether Appellant was a resident of California within the meaning of Section 17013 of the Revenue and Taxation Code during any or all of the years 1945 to 1950, inclusive. A lengthy stipulation of facts and a considerable number of depositions taken in Illinois and California have been filed in this matter. Although there is hereinafter set forth only a summary of the evidence, we have thoroughly considered the vast amount of factual detail which has been presented to us.

Appellant and her husband, William Wrigley, Jr., were married in 1885. In 1891 they moved to and lived in the City of Chicago, where Mr. Wrigley founded the William Wrigley, Jr. Company, manufacturers of chewing gum and related products. While Mr. Wrigley lived, his business organization might well be described as a one-man company, with the result that his wife, with whom he discussed company business in great detail, knew more about the company's affairs and operations than any person except her husband. Her greatest interest was in the gum manufacturing company, which she had helped build to its place of prominence and which was the source of the family fortune.

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The principal offices of the company have always been in Chicago and its principal personnel have always lived there. The Wrigley Building was constructed in 1919 and ever since has housed the executive offices of the company. It was one of the first major skyscrapers near or in the Chicago Loop area and has a commanding position on the northbank of the Chicago River. The building has been regarded as symbolic of the company's location in Chicago,

During ~~their marriage~~ the Wrigleys had two children. A son, Philip K. Wrigley, became associated with his father in the business and the daughter, Mrs. James R. ~~officially~~ married and devoted herself to her family. At all times ~~material~~ to this appeal both of the children have lived with their families in Chicago. ~~Follow-~~ing the death of his father in 1932, the burden of management of the company fell upon Philip K. Wrigley, who often consulted with his mother concerning the business affairs and problems of the company. With one or two exceptions, all of **Appellant's** grandchildren and great-grandchildren have been residing in the Chicago area.

William Wrigley, Jr, was greatly interested in baseball and at an early date purchased the Chicago National League Baseball Club and devoted a considerable portion of his time and money to ~~the~~ development of this baseball team. Since 1932 Appellant has continuously had a box in Wrigley Field in Chicago, the home of the Chicago Cubs, The seats in this box have been maintained for her at all times up to the present and have never been occupied except by dignitaries and friends of the family, upon approval of Philip K. Wrigley,

After the success of the chewing gum business and the **Chicago** Cubs Baseball Club was assured, the family and friends induced **Mr.** Wrigley to seek additional outside interests which would take him away from his work, He became interested in California, and in 1919 he purchased an interest in Santa Catalina Island, and, a few years later, the Los Angeles Baseball Club. During the next several years he participated actively in building Catalina as a resort area, When he died **Mr.** Wrigley's estate was probated in Chicago, Illinois, with ancillary administration in **California.**

During their married lives Appellant and her husband maintained residences in different localities. At 1500 Lakeshore Drive in Chicago they owned and maintained a duplex apartment in a cooperative apartment building which was easily accessible to the executive offices of the William Wrigley, Jr. Company. Two blocks away is the apartment in which **Appellant's** daughter resides. Following the death of Mr. Wrigley, title to the **28-room** apartment passed to the trustees under his will, with a bequest that the Appellant have the use and occupancy of the property for her life. After her husband's death Appellant relinquished the apartment to her son and until 1937 rented a smaller apart-

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ment in the same building. In that year she purchased a **15-room** apartment with two garage stalls at the same address and later acquired two additional garages and chauffeur% quarters there.

At Lake Geneva, Wisconsin, 72 miles north of Chicago, the Wrigleys owned another property known as Green Gables, which they acquired in the early **1900's**. This place was used as a summer and weekend residence because of its accessibility to Chicago. The tract consists of 52 acres, with lake frontage, and is improved with a **31-room** residence, with several other buildings, including cottages, a lodge, laundry, bowling alley, boat house and tennis court, Upon Mr. Wrigley's death legal title to Green Gables passed to the trustees under his will, who rented it to Appellant whenever she desired it, It has never been rented to any other person.

La Colina **Solana** is a large and impressive mansion at **Phoeniz**, Arizona, acquired by Mr. Wrigley when purchasing other properties in that area. It was given to Appellant by her husband in 1930. This residence was used by the Wrigleys principally as a winter home and it was here that Mr. Wrigley died, The Arizona home has never been rented to persons outside the family but in **1946** it was sold, with a reservation that the Appellant retain the use and occupancy of the premises for her life.

At least as early as 1919 Mr. Wrigley acquired another large home. Located at **391** South Orangegrove Avenue, Pasadena, California, this is on a three acre piece of ground, improved also with a garage? gardener's cottage, servants' cottage and greenhouse. Sometime prior to Mr. Wrigley's death he transferred the title to this residence to a corporation which he controlled, After Mr. Wrigley's death title to this house passed to the trustee under his will, with the Appellant renting the property from the trustees.

In **1924** a residence known as Mt. Ada, overlooking Avalon Bay in Santa Catalina Island, California, was given to Appellant by her husband. She has owned it ever since and has occupied it from time to time, The house is located on a **35-acre** area, most of which consists of natural hillside, Following Mr. Wrigley's death in 1932 his body was buried for a time on this property, being subsequently removed to a cemetery in Glendale, California, where it is now interred.

For a long period prior to Mr. Wrigley's death it was customary for Appellant to spend a portion of the year in each of the several homes described herein. In general, she followed a pattern of spending the spring and fall seasons in Chicago, the summer at Lake Geneva and the winter in Arizona and California. During the years 1932 to **1944**, inclusive, the period

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between her husband's death and the years in question, Appellant spent in the aggregate substantially more time in California than in any other state,

In the early months of 1945, when Appellant was 76 years old, she occupied her residence in Pasadena. During this period she appears to have been under the care of physicians until May. On June 3, 1945, she left for Chicago accompanied by a nurse and her personal secretary. On December 11, 1945, she left Chicago to return to Pasadena. During the period between her departure from California and her return she spent three months and eight days in Chicago and three months and two days at Lake Geneva, Wisconsin.

Following her return to California Appellant suffered from an acute respiratory infection and was attended by her physician almost daily until May, 1946. In that month she went to the Catalina home and stayed there until early November, when she returned to Pasadena. When she inquired from her Pasadena physician about making a trip to Chicago during that fall she was advised against it by the doctor, who testified, "I felt that the trip would be injurious to her health and if made in the usual way, I seriously questioned whether she could do it without physical breakdown \*\*\* and simply thought that it would be better for her not to make the trip."

In February, 1947, Appellant again went to Catalina and, except for periods of one week in May and two weeks in June spent in Pasadena, she remained there until the middle of August of that year. On September 6, 1947, she left for Chicago,

Following her arrival in Chicago Appellant spent a week in a hotel while her apartment was being readied and her secretary secured the services of a cook. While in Chicago she considered the possibility of giving up the apartment which she owned and acquiring a smaller house in the suburban area of Chicago. Although she inspected two houses, apparently neither suited her purpose.

On December 6, 1947, Appellant left Chicago to return to Pasadena, where she arrived on December 8th. On December 23rd she suffered a cerebellar thrombosis and has remained in a comatose condition ever since. She is paralyzed and has been kept under the constant care of nurses and physicians in the same room of the Pasadena residence in which she suffered the stroke.

For many years Appellant has been a member of three clubs in Chicago and a country club at Lake Geneva. Following the death of her husband she received a courtesy card to the ladies dining room of a club in Los Angeles. She was active in various charitable organizations in Chicago. During World War II Mrs. Wrigley

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donated a seven-story building to the Chicago Chapter of the American Red Cross, She was never active in charitable organizations in California, For many years prior to 1935 and at all times since then Appellant has been registered to vote in Chicago, She has never been registered to vote in any state other than Illinois, In the Presidential elections of 1936, 1940 and 1944 she voted personally in Chicago.

At least as far back as 1938 and until 1949 Mrs. Wrigley made personal property tax returns to the State of Illinois listing her address as in Chicago. She included in the returns, in addition to tangible personal property located in Illinois, intangible personal property on the basis that she was a resident of Illinois, In 1950 her property tax return was included in a return of fiduciary estates by the First National Bank of Chicago, The State of Illinois does not impose a tax on personal income.

Appellant maintained a bank account in Los Angeles which was used for deposit of rents from Avalon properties, She had no other bank account in this State, Three accounts were maintained in Chicago banks.

During the period from 1930 to 1947 Appellant executed fifteen wills or codicils prepared by her Chicago attorneys in which she described herself as "of the City of Chicago."

In 1936 the Franchise Tax Commissioner considered the question of whether Mrs. Wrigley was a California resident for the year 1935. Thereafter a letter was written to Appellant's counsel by the Commissioner in which the conclusion was expressed that her status for State income tax purposes was that of a non-resident, For the years 1935 through 1944 Appellant filed non-resident California income tax returns and paid California income tax on that basis. She has filed similar returns for the years in question in this appeal,

On March 10, 1950, the Probate Court of Cook County, Illinois, entered an order that Mrs. Wrigley "is an incompetent and is incapable of managing her person and estate." In that order the court appointed her son, Philip K. Wrigley, and the First National Bank of Chicago, as conservators of her estate.

Expressed in percentages, the approximate time which the Appellant has spent in California and in other states during various periods is shown in the following tables.

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1. Period frpm 1932 through 1941:

California	43%
Illinois	18%
Wisconsin	13%
Arizona	18%
Elsewhere	8%
	<u>100%</u>

2. Period from 1942 through 1944:

California	16%
Illinois	44%
Wisconsin	9%
Arizona	29%
Travel, etc.	2%
	<u>100%</u>

3. Year 1945:

California	44%
Illinois	27%
Wisconsin	25%
Arizona and travel	4%
	<u>100%</u>

4. Year 1946:

California	100%
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5. Year 1947:

California	75%
Illinois	25%
	<u>100%</u>

6, Period from 1948 through 1950

California	100%
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Section 17013 of the Revenue and Taxation Code, in effect for the years involved in this appeal, provided:

"17013. "Resident" includes:

(a) Every individual who is in this State for other than a temporary or transitory purpose.

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(b) Every individual domiciled within this State who is in some other state, territory, or country for a temporary or transitory purpose.

Any individual who is a resident of this State continues to be a resident even though temporarily absent from the **State."**

For the years pertinent herein Section 17015 of the Revenue and Taxation Code provided:

"17015. Every individual who spends in the aggregate more than nine months of the taxable year within this State or maintains a permanent place of abode within this State shall be presumed to be a resident. The presumption may be overcome by satisfactory evidence that the individual is in the State for a temporary or transitory **purpose."**

The pertinent portions of the regulations relating to the personal income tax, in effect during the years in question, were as follows:

Reg. 17013-17015(a). The term "**resident,**" as defined in the law, includes (1) every individual who is in the State for other than a temporary or transitory purpose, and (2) every individual who is domiciled in the State unless he is a resident within the meaning of (1) above of some other State or country; provided, however, that an individual who is domiciled outside of the State is not a resident despite the fact that he is in the State for other than a temporary or transitory purpose, if he was mentally incompetent at the time he came into the State, and this fact is evidenced by a legal adjudication of incompetency either before or after he came here, and has remained mentally incompetent during his sojourn in the State, All other individuals are non-residents.

Under this definition, an individual may be a resident although not domiciled in this State, and, conversely, may be domiciled in this State without being a resident, The purpose of this definition is to include in the category of individuals who are taxable upon their entire net income, regardless of whether derived from sources within or without the State, all individuals who are physically present in this State enjoying the benefit and protection of its laws and government, except individuals who are here temporarily, and mental incompetents domiciled elsewhere who were incompetent at the time they came into the State and remained mentally incompetent during their sojourn here, and to **ex-**

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clude from this category all individuals who, although domiciled in this State, are physically present in some other State or country for other than temporary or transitory purposes, and, hence, do not obtain the benefits accorded by the laws and Government of this State.

If an individual acquires the status of a resident by virtue of being physically present in the State for other than temporary or transitory purposes, he remains a resident even though temporarily absent from the State. If, however, he leaves the State for other than temporary or transitory purposes, he thereupon ceases to be a resident,

Reg. 17013-17015(b), Whether or not the purpose for which an individual is in this State will be considered temporary or transitory in character will depend to a large extent upon the facts and circumstances of each particular case. It can be stated generally, however, that if an individual is simply passing through this State on his way to another State or country, or is here for a brief rest or vacation, or to complete a particular transaction, or perform a particular contract, or fulfill a particular engagement, which will require his presence in this State for but a short period, he is in this State for temporary or transitory purposes, and will not be a resident by virtue of his presence here,

If, however, an individual is in this State to improve his health and his illness is of such a character as to require a relatively long or indefinite period to recuperate, or he is here for business purposes which will require a long or indefinite period to accomplish, or is employed in a position that may last permanently or indefinitely, or has retired from business and moved to California with no definite intention of leaving shortly thereafter, he is in the State for other than temporary or transitory purposes, and, accordingly, is a resident taxable upon his entire net income even though he may retain his domicile in some other State or country.

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Generally, except for a person who was a resident the preceding year, a person not domiciled in California, who is in this State for only four months of a taxable year, will not be held to be a resident because of that four months' presence.

The underlying theory of Sections 17013-17015 is that the State with which a person has the closest connection during the taxable year is the State of his residence.



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Consequently, where a person's time is equally divided between California and the State of domicil, he will not be held to be a resident of California.

Reg. 17013-17015(e). If an individual (other than a mental incompetent domiciled elsewhere who was legally adjudicated incompetent at the time he came into the State) spends in the aggregate more than nine months of any taxable year in this State or maintains a permanent place of abode in this State during any taxable year, it will be presumed that he is a resident of this State. The presumption is not conclusive but may be overcome by satisfactory evidence that he is in the State for temporary or transitory purposes only. It does not follow, however, that a person is not a resident simply because he does not spend nine months of a particular taxable year or does not maintain a permanent place of abode in this State. On the contrary, a person may be a resident even though not in the State during any portion of the year,,

Reg. 17013-17015(f).\*\*\*

Affidavits that an individual votes in or files income tax returns as a resident of some other State or country, although relevant in determining one's domicil, are otherwise of little value in determining one's residence. No weight shall be given to the fact that charitable contributions are made to charities either within or without the State.

\* \* \*

The statutory presumption that Appellant was a California resident is applicable to the entire period in question because she maintained a permanent place of abode here, and is also applicable for the years 1946, 1948, 1949 and 1950 for the additional reason that she spent in the aggregate more than nine months of each of those years within the State. It is our conclusion that Appellant has not overcome the statutory presumption by satisfactory evidence that she was in the State for a temporary or transitory purpose.

It is the contention of Appellant that in early 1945 she was in California only for her customary winter visit and that her stay was extended against her wishes solely because of illness contracted in California. Similarly, following her return to California in December of that year it is claimed that she was prevented from returning to Chicago until September 1947, by illness contracted soon after her arrival here. Since her stroke in December, 1947, it is stated that she cannot be moved. Affidavits of family friends and of her physicians corroborate her physical condition during the periods mentioned,

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It is argued that Appellant never intended to stay in California for more than the winter months; that she always intended to return to Chicago; that she has always regarded Chicago as her home and that for these reasons she has not become a resident of California within the meaning of Section 17013 of the Revenue and Taxation Code,

Although the Franchise Tax Board requested permission to examine Mrs. Wrigley's diaries it appears that because of the personal nature of the writings Mr. Philip K. Wrigley was reluctant to permit such an examination. At his suggestion, the diaries were turned over to a Chicago firm of certified public accountants for the purpose of compiling a report containing excerpts therefrom relating to the Various homes, health, travel and contemplated travel, whereabouts, and taxes of whatsoever nature of Mrs. Ada E. Wrigley, " which report was turned over to the Franchise Tax Board. A copy of the report thus prepared is attached to the stipulation of facts filed with this Board.

Our review of the excerpts taken from Mrs. Wrigley's diaries indicates that with increasing age the state of her health steadily declined. Beginning as far back as 1932, we find frequent references to fevers, asthma, bad colds, weakness, sweats and other ailments, many of which confined her to bed. Her poor health since that year is further evidenced by constant references to visits to or by her physicians, both in Chicago and California. Furthermore, her entries in December of 1944, while in Arizona and just prior to her departure for California, show that she was very ill with an infected throat, heavy sweating and hives, requiring the attendance of a doctor twice a day for most of that month.

Although Appellant and the Franchise Tax Board have each devoted a major portion of their respective briefs to arguments and citations of decisions relating to domicile, we do not consider it necessary to determine **Appellant's place** of domicile for purposes of this appeal. Since 1937 the statute clearly provides that residence alone is sufficient to subject a person to the tax. Prior to the statutory amendment of that year, however, only persons domiciled in California were regarded as residents.

Article 2(k)-1 of the regulations, as in effect until 1937, provided as follows:

**"Every** individual domiciled in this State is a resident of the State and is taxable upon his entire net income received or accrued during the time he is domiciled here, All other individuals, i.e., individuals not domiciled here, are non-residents and are taxable only upon that portion

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of their income which is derived from sources within this State,"

It should be noted, therefore, that the conclusion in 1936 of the Franchise Tax Commissioner that Appellant was a non-resident *in* 1935 merely constituted a determination that she was not domiciled in California in that year. Had the question been one of residence, as contrasted to domicile, the conclusion might well have been different,

The accepted concepts of domicile and residence are set out in Matter of Newcomb's Estate, 192 N. Y. 238, 250 84 N. E. 950, 954, (see also Commissioner v. Swent 155 F. 2d 513, Myers v. Commissioner 180 F. 2d 969, Commissioner v. Nubar, 185 F. 2d 58, Commissioner v. Patino, 186 F. 2d 962) as follows:

"As 'domicile' and 'residence' are usually in the same place, they are frequently used, even in our statutes, as if they had the same meaning, but they are not identical terms for a person may have two places of 'residence,' as in the city and country, but only one 'domicile.' 'Residence' means living in a particular locality, but 'domicile' means living in that locality with intent to make it a fixed and permanent home. 'Residence' simply requires bodily presence as an inhabitant in a given place, while 'domicile' requires bodily presence in that place and also an intention to make it one's domicile." (Emphasis added)

What was intended by the statute as amended in 1937 was stated in the regulations (supra) to be "that the State with which a person has the closest connection during the taxable year is the State of his residence,"

While it may be conceded that the center of the Wrigley business interests is Chicago, it is also true that at a very early date Mr. Wrigley developed extensive commercial enterprises within California, which have been continued to the present time by the Wrigley heirs or trustees. The record before us, however, indicates that at least since 1940 Appellant has shown but a casual interest in the operations of the various Wrigley enterprises.

During the period between 1932 (the year of her husband's death) and 1941, inclusive, Appellant spent in the aggregate more than twice as much time in California as in Illinois. As she spent less time in Wisconsin or Arizona than in Illinois, the proportion of time spent in California is even greater when

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compared with the time spent in either of those states. This long continued preference for California, when coupled with her extensive and long continued financial interests within the State, the burial of her husband in California, the retention of two large homes within the State and the exchange of her large apartment in Chicago for smaller quarters there, convinces us that she was not in this State merely as a temporary sojourner here, but rather that California had become her principal place of abode. Under such circumstances, we are of the opinion that the State with which she had the closest connection during those years was California.

While it is true that during the years 1942 1943, and 1944 Appellant spent a great deal more time in Illinois and Arizona than she had in previous years and was in California but for very short periods of time, this may be attributed to war conditions, which resulted in a generally unsettled, and by some regarded as a dangerous, situation on the Pacific Coast,

Against this general background we are called upon to decide whether Appellant has overcome the statutory presumption that she was a resident of California during the years in question, **By** reference to the tables herein-set forth, it may be seen that in 1945 the first year with which we are concerned, she spent 44% of her time in California and only 27% in Illinois. This was entirely consistent with the 10 year period preceding the war, during which period she spent an average of 4% of her time in California and 18% in Illinois. Further evidence of her intention again to make California her principal place of residence following the war may be found in the sale in 1946 of her home in Arizona and in her expressed desire and effort in 1947 to find a smaller home in Chicago. It does not seem to us that under these circumstances the Appellant was in California during the years 1945, 1946 and 1947 for a temporary or transitory purpose. **As** she did not leave California subsequent to her stroke here in 1947, it necessarily follows that she retained her status as a resident for each of the years 1948, 1949 and 1950.

In reaching our conclusion we have carefully weighed the evidence relating to **Mrs. Wrigley's** state of health, her **retention** of an apartment in Chicago, the continuation of her membership in various clubs and other organizations in Chicago and the exercise of her voting privilege there.

Taken in its entirety we **are of** the opinion that the evidence before us refutes any argument that the Appellant's extended stays in California during 1945, 1946 and 1947 were attributable solely **to illnesses** contracted after her arrival here. To the contrary, her diary shows that she had been in very poor health for many years and there is nothing in the record to indicate that during the years in question she con-

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templated more than her usual annual trip to Chicago, Prior to her stroke she was prevented from making that trip only in the year 1946. To assume that with good health she would have spent less time in California during the years in question than she did during the pre-war period quite obviously would be entirely speculative.

As respects the continuation of her memberships in various Chicago clubs, it is not surprising that a woman of Appellant's wealth would choose to retain such memberships even though she expected to be in Chicago for only a short time each year. Undoubtedly, despite her long absences from Chicago these memberships enabled Mrs. Wrigley to retain contact with friends and former associates in that area and probably contributed materially to the enjoyment which she derived from periodic returns to that city.

Under Section 17013-17015(f) of the Commissioner's Regulations the facts that an individual votes in and files tax returns as a resident of a state, although relevant in determining domicile, are otherwise of little value in determining residence. We are of the opinion that the same may be said of the retention of Mrs. Wrigley's membership in social organizations in Chicago.

O R D E R

Pursuant to the views expressed in the opinion of the Board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to Section 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protests of Ada E. Wrigley to proposed assessments of additional ~~personal~~ income tax in the amounts of ~~\$30,212.56~~ \$31,379.69, \$33,861.90, \$43,944.26, \$54,357.78 and \$55,808.38 for the years 1945, 1946, 1947, 1948, 1949 and 1950, respectively, be and the same is hereby sustained.

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Done at Los Angeles, California, this 17th day of November, 1955, by the State Board of Equalization.

J. H. Quinn, Chairman

Paul R. Leake, Member

Robert C. Kirkwood, Member

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\_\_\_\_\_, Member

ATTEST: Dixwell L. Pierce, Secretary