

Rt. 12, Frederick, Md. 21701

1/23/77

Dear Mr. Fertus,

Today's Post's story, which I imagine is the cause of some unhappiness to you, carries me back to the Durr memorial, when you asked me to arrange to see you in your office. It relates to one of the matters I suggested might be of interest to you.

With the passing of time we forget. Not long after those services I was hospitalized with serious thrombophlebitis. You may have forgotten this or you may have decided not to interest yourself when I wrote you last April. Your file will show I did not push. I am not new.

Obviously I have no way of knowing what is behind this story. I see the atypical in it. I see it as a hatchet job. There are completely abnormal omissions from what I knew of fact and journalism. Two are Wolfson's former Washington base and his first wife's terminal illness. The omission of this illness at the time he said he had to stay out of jail for a while longer strikes me as vengeful writing.

You had little recollection of how we met. Your wife probably did not know me well when I was a Senate investigator and she was in our offices often. (She, my wife and Bert Wheeler's daughter Francis were the young women who then did what they could about Japanese aggression by wearing hosiery stockings.) Virginia Durr remembers me well, if you want to learn about me from those you know.

In recent years I have devoted myself, not quite exclusively, to the political assassinations. I have never been in pursuit of a whodunit. My work is a very large study of our basic institutions in time of crisis. In the course of it I have done virtually all the solid work not in accord with the official explanations of the JFK and King assassinations. I have begun the deposit of my papers in a major university system. There is continuing interest in them because mine is substantial work. A week ago I had a request for these papers from a large west-coast university. The head of another history department is coming here Wednesday. While the subject has attracted many huts and self-promoters it does mark a turning-point in history. Mine is generally regarded as the most extensive and most dependable work.

It is from this reputation that there were several approaches from European publishers for me to do a Watergate book. By the time it was apparent that the market did not desire ~~xxxxxxxx~~ definitive, basic writing I was well into an investigation and writing I did not want to lay aside. I developed information as yet unpublished about some of the central characters. This led to what was attempted on Mr. Douglas, how by whom and with what clandestine support, thus also to you.

A Washington associate of Mr. Wolfson sent me to Florida to approach the Wolfson foundation for support. My meeting with Arvin Rothchild was interfered with by a betting charge laid on him. We spent some of the afternoon together and with his wife dined that night. He seemed impressed and he said he was. He later reported that the probability of foundation support did not seem high. As I now recall it I had completed a long, hasty and almost entirely unread rough draft while deeply engaged in other work, some thanks to you and Harris v. Wolfson. I could not abandon theater work and I was anxious for a good editing job for which I could not pay.

Several months later I was invited to Ocala for the same purposes. Mr. Wolfson was off with his horses when I reached there. He had a Cuban or Mexican trainer come at the same time. Just before and during supper most of the conversation was about horses. At the end of the meal Mr. Wolfson invited me into the living room to discuss the purposes of my going there. We spent about an hour, often interrupted, in conversation. He had glanced casually at some of the documents I had with me and abruptly terminated our meeting by having me ushered to one of the cottages. I have neither seen nor heard from him

since. Before he terminated the audience he did know the essence of what I had developed relating to the involvement of some of the Watergate characters with the Nixon-Ford efforts against the Court members. When he seemed unable to detach himself from the horses and speeches favorable to those I knew to be charlatans I did ask him to do what he could to make information available to me. This was limited to these Court efforts. Nothing happened. Considering what I had and showed him in solid evidence this was then surprising and now it is more so.

Many things suggest themselves. I have no way of knowing whether any is relevant. One example is the timing, the appearance of this story in the first Sunday edition after the change in administrations, the first Sunday Ford is not President. Another is that it was fed to Bob Woodward, whose non-reporting in Watergate in part accounts for the fact that what I report above is not public knowledge.

I do not know if what I know is of interest to you. If it is I do get to Washington from time to time. I suppose because of the clots I have been cautioned against injury or jarring. However, once the weather clears I will be going there for some blood tests if you want to speak to me. Obviously I am asking nothing of you.

But I'm sorry about this for you. And I do wish you well.

Sincerely,

Harold Weisberg

Fortas Tie To Wolfson Is Detailed

1/23/77

By Bob Woodward
Washington Post Staff Writer

Millionaire industrialist Louis E. Wolfson secretly recorded a two-hour conversation with Abe Fortas in 1970—nine months after disclosure of a \$20,000 payment by Wolfson to Fortas had resulted in Fortas' resignation from the Supreme Court.

A 34-page transcript of the Fortas-Wolfson conversation adds substantial new detail to the Fortas affair and shows that Fortas, while a member of the high court, was very heavily involved in advising Wolfson on legal difficulties he had with the Securities and Exchange Commission.

According to the transcript, at one point Fortas agreed to intervene directly with the SEC chairman on the case, though the transcript obtained by The Washington Post indicates that Fortas did not follow through on the agreement.

"It would have been like lighting a fuse on our own dynamite," Fortas said.

At another point in the conversation, Fortas, speaking of a letter he had sent when Wolfson went to prison, correspondence they had agreed to keep private, exclaimed to the financier:

"... I worded it very carefully and discreetly—I had to write you. My heart was full of grief and affection... all in my heart—I'd give anything to protect Lou Wolfson."

The transcript notes the sighs, the pauses and the laughter as the two men reflected on the events that resulted in the only resignation of a Supreme Court justice under pressure.

The SEC investigation eventually led to Wolfson's indictment, conviction and nine-month prison term.

Fortas had agreed to accept the \$20,000 payment at a meeting in which Wolfson told him for the first time that his difficulties with the SEC were serious, according to the transcript.

See FORTAS, A12, Col. 1

FORTAS, From A1

In addition, Fortas persuaded Wolfson not to release 11 pages of correspondence between the two, including letters about the SEC case and a letter in which Wolfson sought Fortas' assistance in obtaining a presidential pardon.

Most of the letters were written while Fortas was a member of the high court.

At the time of the Fortas controversy in 1969, Fortas denied involvement in Wolfson's affairs. In a letter to Life magazine, which broke the story of the \$20,000 payment, Fortas said that while he was a member of the court he did not "participate in any of Mr. Wolfson's business or legal affairs."

Fortas, who had been a longtime confidant of Lyndon B. Johnson, was hired as a lawyer by Wolfson in June, 1965. The next month President Johnson nominated Fortas to the Supreme Court. In October, 1965, he was sworn in and soon thereafter accepted the \$20,000-a-year post with the Wolfson foundation. The annual retainer was to be paid to Fortas' wife if he died.

Fortas received one \$20,000 payment in 1966 but returned it and cancelled the retainer agreement 11 months later after Wolfson was indicted. The Life article appeared three years later May 4, 1969, and Fortas resigned from the court 11 days later after the article.

The Fortas-Wolfson conversation that Wolfson recorded took place March 1, 1970, in Jacksonville, Fla. It was held at Fortas' request. This was a month after Wolfson was released from prison and two days before Wolfson held a press conference to defend his relationship with Fortas.

Fortas, who is now in private law practice here, was given a copy of the 34-page transcript last Monday night by a reporter. He confirmed he met with Wolfson in Jacksonville that day in 1970, but said he had no idea the conversation had been recorded. After reading some of the transcript, Fortas said "it could be" correct.

He agreed to read the entire transcript that night and meet with a reporter the next morning to answer questions. Fortas canceled the second meeting and said he would decline all comment.

Informed that The Post had obtained the transcript, Wolfson issued the following statement through a spokesman: "Let the facts speak for themselves."

According to the transcript, Fortas said in the 1970 meeting that he was afraid that release at the Wolfson press conference of the correspondence—including offers of other financial assistance from Wolfson—would make the \$20,000 foundation payment look like "a phony" and "not sincere."

Even though the Justice Depart-

ment had already obtained most of the letters and had closed its investigation of the Fortas-Wolfson relationship, Fortas told Wolfson that public release would do both of them "great harm."

The Fortas-Wolfson correspondence has never been made public. Reports at the time of Fortas' resignation said that then-Attorney General John N. Mitchell had personally locked it in his own safe.

According to the transcript of the Fortas-Wolfson meeting, Fortas said he was confident that the correspondence would never be made public by Mitchell.

"The whole thing has been sealed in the Department of Justice so that it will not get out," Fortas said. "Justice has got it all buttoned up."

In arguing that Wolfson not release it, Fortas said the correspondence would be construed as follows:

"That your giving me and my accepting the foundation post was nothing but a cover-up and that what was really happening was that I was taking a gratuity from you in terms of the statute and supplementary my salary. You see? And that is very bad.

"And if this correspondence gets out, it will be so construed and no doubt about it whatever.

"Now, in some of these letters that I wrote you and in many of the letters you wrote me there are long discussions or short discussions of the SEC problems and this and that and what goes on.

"Now, the way these fellows (reporters)—if those letters get out—the way these fellows will construe it will be that this is the reason for your wanting me to start with the foundation; that you wanted legal advice and help, which is totally untrue."

The transcript shows that Fortas was worried about bad publicity and he successfully persuaded Wolfson not to release the correspondence.

At Fortas' suggestion, the two men removed pages 98 through 108 from a booklet Wolfson had prepared to release at his press conference. A booklet was released with other material but it did not contain the letters.

Wolfson's press conference was his first opportunity to describe his relationship with Fortas following his release from prison.

Wolfson served the term for failure to register a stock sale with the SEC. He was also charged with filing false financial statements and committing perjury in another SEC case. He pleaded no contest to the false financial charge and was given a suspended sentence. The perjury charge was dropped.

According to the transcript, Wolfson said at the beginning of the meeting:

"Abe, what seems to be bothering you?"

"I am most appreciative your giving

me this time," Fortas responded. "I know it is a repetition of the agony but—(long sigh) (pause) I was told that in your press conference—forth coming press conference . . . that you were going to talk about me and about our relationship.

"And so I wanted to ask you if you and I might discuss that and the reason for it is that the whole situation is very subtle—because these mongers and what they have been trying to do is to catch us in any kind of violation of law that they can."

Fortas said their correspondence was "perfectly proper and oaky," but release would be "very bad for me."

Fortas continued: "They will construe some of the things that I wrote to you as being legal work and that I

was doing for you—legal advice—although it did not amount to a damn thing . . . And there is a statute that is against that which reads on that particular situation."

Then Wolfson recalled the discussions the two had prior to Fortas' taking the \$20,000-a-year foundation position:

"If you remember, on three or four different occasions I said, 'Abe, don't come with the foundation now. I don't want you to be embarrassed. I understand this (the SEC probe) may be serious.'

"You said, 'Lou, I understand it is strictly technical and I don't think you have anything to worry about.' Now, if you remember I kept cautioning you. I said, 'Abe, don't do it because I do not want to embarrass you in any way whatsoever.'"

In the conversation Fortas at first said he could not remember these discussions, then he finally said, "That is right."

Fortas then said the Nixon administration was plotting to get him off the court because Sen. Strom Thurmond (R-S.C.) had been promised that he could designate a replacement for Fortas on the high court.

(President Nixon later did nominate Clement F. Haynsworth Jr., a federal judge from South Carolina to fill the vacancy but the Senate rejected the nomination.)

"The real truth about this was that they were bound and determined to get me," Fortas said, "because of my association with Johnson. I will not tell you of all the background of this. The fact that they—what happened was that this thing provided an element of vulnerability.

"But that's all. They were going to get me. They had the place promised. They had it promised—Nixon had it promised to Thurmond."

Wolfson went on to discuss a letter he wrote Fortas just before going to prison:

"That was the only time I ever

asked you for one thing—in April I wrote you a letter — of 1969. You recall? I think April 16 and I said, 'Abe, I want you to do something for me,' if you recall. I said, 'I cannot go to prison right now; if you could do anything to get me a presidential pardon—have President Johnson call Mr. Nixon.' That is the only thing I have ever asked you to do for me."

The Justice Department never obtained this 1969 letter because correspondence between the two men was subpoenaed only for the years 1964 to 1968.

The conversation then shifted to a meeting five years earlier between the two men when Fortas had just become a member of the court and Wolfson had just learned he was in serious trouble with the SEC. Fortas was sworn in Oct. 4, 1965.

At this Oct. 23, 1965, meeting at Fortas' house the foundation deal was consummated.

Wolfson: "I went there and you said, 'Lou, I would like to be a consultant on the foundation. I think I can give it the time and I would like to do it.'"

"That was the first time you ever made a commitment that you were willing to do it. All other times you never made a commitment.

"When you made a commitment, I said, 'Abe, I learned for the first time that this thing could be serious. I had a meeting with attorneys and the people with my company for the first time. This thing may be serious.'"

Then Fortas, who was having a hard time getting a word in, turned to the correspondence.

"Lou, my friend, will you listen to me just a minute? . . . If you release these letters—the correspondence between you and me, some of which was private. If you release those, I tell you that you will inadvertently and unwittingly be doing me harm."

"I would not hurt you," Wolfson responded. "I would not hurt anyone."

"I know you won't, Lou. I am just telling you that I know this situation intimately. It will be doing me great harm. Now, my friend, I put it all on me—it will be doing me great harm and in my heart I know that you will disregard what I am about to say—but it will also do you harm.

"Things are quiet now and I have reached a point where I think I can resume my life. The release of these letters — you see when you release that handwritten—'Why did Fortas write Lou Wolfson a handwritten letter? He must have done it because he wanted to hide something.'"

"I think the reason—I don't remember why I did it . . . I wrote a lot of letters by hand. I may have written it because I did not want it to get in my files or anybody's files because it was such a personal thing to you that I was writing."

The handwritten letter was dated

May 17, 1966, and in it Fortas urged Wolfson not to resign as chairman of the board of Merritt-Chapman and Scott, a marine salvage and construction firm, according to the transcript.

Fortas was then a member of the court and his former law firm was representing Wolfson in the SEC investigation involving that company.

Fortas continued: "I was writing to you from my heart, saying to you, 'Lou, for God's sake, do not resign at this time.'"

"And I took your advice," Wolfson said.

" . . . But don't you see, Lou, how terrible that looks?" Fortas asked. Then Fortas said the news media would misuse the information. "They are crooked, they are dirty, they are—all they care about is themselves."

Wolfson then brought out the booklet he planned to release in two days.

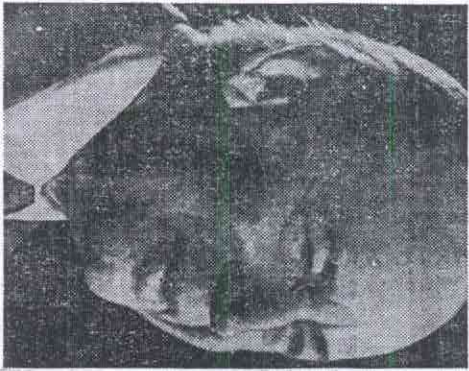
The transcript indicates there was a letter of July 22, 1965, in which Wolfson offered financial assistance to Fortas if he took a Supreme Court appointment from his old friend, President Johnson.

At the time Fortas had told Wolfson that he was not going to accept the Supreme Court nomination because of the financial sacrifice. But six days later President Johnson announced Fortas' appointment.

Fortas and Wolfson then started going through the booklet and Fortas found the letters offering financial assistance.

"Your offers of financial assistance, . . ." Fortas said, but he was cut off.

"Those letters," said Wolfson. "In



ABE FORTAS

... Fortas quit court after payment from Wolfson foundation was revealed.



LOUIS E. WOLFSON

other words, those letters can hurt you very badly?"

"Yeah," Fortas replied.

Wolfson inquired how the Johnson administration's SEC chairman, Manuel F. Cohen, could wind up investigating Wolfson. "Well, I thought you told me you were responsible for his appointment," Wolfson said.

"I was," replied Fortas.

"And a man would do something like that?"

"... that is one of the burdens that I bear," Fortas answered. "You are not the only one who suffered."

Fortas went on to state his case for removing the letters from the booklet and not releasing them:

"The trouble is that juxtaposition—my whole case depends upon the sincerity and integrity—which we certainly have—of our arrangement which was that I was going to do work for [the] foundation and the juxtaposition of this, you see, will give these fellows a basis—that the foundation

thing was just a phony...."

Wolfson finally agreed: "Now the letters and things you think hurt you, I am willing to go ahead and pull those letters out completely.... In other words, you want those letters out?"

Fortas replied: "Well—(pause—I you know I feel [laughter] about you the way you feel about me. You know—hurt you—")

Wolfson said that he didn't think Fortas should have resigned. "Abbe, why did you resign?" he asked.

"I knew that they were after me and that—just going to be impeached," Fortas replied.

Wolfson then brought up his April, 1969, letter to Fortas requesting assistance in obtaining a pardon, and contended that Milton Freeman, one of Fortas' former law partners and the lawyer representing Wolfson in the SEC case, called him.

"Milt Freeman called me and said, 'Listen, you understand you will get a

letter—formal letter—but you can rest assured that your friend (Fortas) is going to help you any way he can with the former President. Now that was good enough for me but apparently nothing happened."

"No," replied Fortas. (Freeman was out of town and could not be reached for comment last week.)

"But at least you tried—it made no difference. Another thing I could not understand. You never talked with Manuel F. Cohen?" Wolfson asked.

"It would have been like lighting a fuse on our own dynamite," Fortas said.

"Yeah, but you told me you would see him or talk with him. You remember?"

"Right," Fortas said.

"And what you must have done—you must have thought it over—and must have said—"

"I did think it over and inquired—" Fortas was cut off, but he indicated he never talked to Cohen.

Wolfson went back to the 1969 letter requesting help on a pardon.

"Lou," Fortas interrupts, "don't tell the press about that... Because, Lou, that would really look bad... Lou, I will not burden you on what happened after that 1969 letter."

"Yeah," said Wolfson.

"Sometime, you know, several years from now when this is all over I will tell you exactly what happened."

Because Wolfson's press conference was only two days away and because 1,500 copies of the booklet had been printed, Wolfson said, "We are going to have to start doing something tonight—take all these letters out—we will just cut them out of the pages."

"You can't do that," Fortas said.

"Why?"

"It will appear that something is missing." So Wolfson agreed to redo the entire booklet and Fortas gave him the pages to remove—those numbered 98 through 108.

Fortas found something else in the booklet he didn't like. "Lou, from your point of view, if I may say so, that is a bad headline."

"Alright," Wolfson replied.

"As well as my point of view," Fortas added.

Next Fortas brought up a June 15, 1966, meeting with Wolfson at Wolfson's thoroughbred racehorse farm in Ocala, Fla.

"I have said and I believe it to be true that it is just so remarkable that during that visit at Ocala you did not discuss the SEC problems with me. You didn't," Fortas said.

"Well, I tell you I did, Abe."

"You did?... That's my faulty recollection."

"And I said, 'I am very concerned about this.' And you said, 'Lou, I still think a technical matter and I have not changed my opinion and I have not heard anything different.'"

"This is not a good thing from my point of view but if it happened, it happened... You have a better memory than I have on this."

At another meeting it turned out that Fortas and Wolfson discussed the two indictments of Wolfson. "That is bad for me," Fortas added. He then proceeded to rewrite much of Wolfson's press statement and cut it down with statements such as "this is a bad sentence" and "suppose you cut that sentence" and "just cut the whole paragraph."

As the meeting approached the end, Fortas got an assurance that Wolfson would not tell the press the details of their meeting.

Fortas said he had wanted to have more contact with Wolfson. "I could have hurt you by seeing you... but I wrote you this letter when you went to prison and I worried it very carefully and very discreetly—I had to write you. My heart was full of grief and affection... all in my heart—I'd give anything to protect Lou Wolfson."