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Fortas Showed Douglas How to Spare Court

The longer one gazes upon William O. Douglas, associate justice of the U.S. Supreme Court, the better Abe Fortas looks. Fortas had the grace to resign. Douglas is adamantly staying on.

Some of the parallel circumstances doubtless will be developed by a House subcommittee now looking into the Douglas record. Meanwhile, a paperback book has just appeared, "Dossier on Douglas," by Allan C. Brownfeld, in which the case against Douglas is competently summarized.

Brownfeld's book, to give him a plug, may be ordered at \$3 from the New Majority Book Club, 1835 R St. N.W. in Washington. Unhappily, the work suffers typographically from the haste with which it was rushed into print, but Brownfeld's tone is moderate, not shrill. The author, a William and Mary law graduate, formerly was on the staff of the Senate internal security subcommittee. Here he has done a workmanlike job.

The parallels between Justice Fortas and Justice Douglas emerge with remarkable clarity from Brownfeld's report.

One of the charges against Fortas, it will be recalled, was

that he engaged as a justice in extra-curricular policy matters unrelated to the law. Specifically, he was supposed to have advised Lyndon Johnson on Vietnam.

Douglas, for his part, also has involved himself in policies remote from the bench. He has publicly waged war upon the Army Corps of Engineers. He has urged recognition of Red China. In 1968, when Ernest Gruening was running for re-election as a senator from Alaska, Douglas publicly endorsed him.

Another of the charges against Fortas stemmed from his acceptance of a \$15,000 fee for conducting a few seminars for American University. The university served, in effect, as a conduit for channeling tax-exempt private funds into his hands.

Precisely the same situation has obtained with Douglas in his role as chairman of the Center for the Study of Democratic Institutions in Santa Barbara. Here Douglas received fees of \$500 a day for participating in seminars.

Still another charge against Fortas was that he once refused to disqualify himself in a pornography case before the high court, involving a defendant he had represented in the

past. The companion charge against Douglas is that he refused to disqualify himself in January in a pornography case involving a defendant, Ralph Ginzburg, publisher of a magazine that paid Douglas for an article.

Fortas was charged with moonlighting as a justice by making lectures for high fees. Douglas, for his part, is a frequent contributor to Playboy magazine, which reportedly pays the highest fees in the magazine field.

The most serious charge against Fortas — the charge that led to his resignation — resulted from his agreement to serve as a \$20,000-a-year adviser to a family foundation created by financier Louis Wolfson.

There is no substantial difference in the matter of Douglas and the Albert Parvin Foundation. Between 1961 and 1969, Douglas accepted \$12,000 a year, plus expenses, for services (what services, one wonders?) as president of the outfit.

There is, however, this great difference between the two justices. Fortas felt keenly about the reputation of the court on which he sat. The controversy over his role with the Wolfson Foundation, he concluded, would adversely affect that reputation.

"In these circumstances," said Fortas, "it seems clear to me that it is not my duty to remain on the court, but rather to resign in the hope that this will enable the court to proceed with its vital work free from extraneous stress."

It is the saddest part of the record of Justice Douglas, perhaps, that he cannot see the need for providing still one more parallel with the record of the departed Justice Fortas.