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Fortas for Warren...

When the Supreme Court reopens in the fall Associate Justice Abe Fortas will move up from the traditional junior seat at the far left to stage center as Chief Justice. The transition from the Warren Court to the Fortas Court should be a smooth one in terms of judicial continuity. In opinions and dissents, the Associate Justice more often than not has sided with the Chief Justice. Indeed, the only rough spot in transition—and we hope it doesn't materialize—is the threat of some Senators to seek political capital by fighting confirmation.

That a distinguished lawyer and law professor now becomes Chief Justice is widely recognized. Mr. Fortas of Yale Law School and of the prestigious Washington firm of Arnold, Fortas & Porter excelled in the theory and practice of law. As one of the bright young lawyers in the Securities and Exchange Commission during the New Deal years, he coped with and often overwhelmed the intricacies of government. In private practice he combined immense success in representing corporate clients with an active concern for cases that significantly broadened legal safeguards for the impoverished and the unpopular.

When President Johnson named him to succeed Arthur J. Goldberg on the Supreme Court, Mr. Fortas was saying yes to a close friend. Exactly twenty years ago Abe Fortas had helped to extricate Lyndon B. Johnson from the legal political wars in Texas. But Mr. Fortas's record in three years on the bench has shown qualities that transcend political shrewdness and Presidential gratitude.

As an Associate Justice he has been pragmatic and idealistic—characteristics of the outstanding Chief Justice he replaces. He has lined up with the liberal majority in civil rights and civil liberties cases. He has shown an awareness of the problems of the country's economic growth. He has not feared to stand alone in dissent against the whole Court, as

in his opinion holding that community antenna television operators should recognize the copyright ownership of the nation's creative elements.

Chief Justice Warren is a brilliant example of how a man of character can continue to grow in high office. There is every reason for optimism that Mr. Fortas will contribute another such lustrous example if he can add to his distinction of intellect the talent for intra-Court conciliation that helped make his predecessor so effective as Chief Justice.

Soon after he assumes the burdens of first judge of the land, the President who appointed him will leave the White House. That President's right to choose a Chief Justice is historically sound; the rightness of his choice is cause for high hopes.

...Thornberry for Fortas

In nominating Homer Thornberry to replace Mr. Fortas as Associate Justice, President Johnson brings to the Supreme Court an appeals judge from the Deep South circuit that has been at the storm center of the fight over equal rights for the Negro.

Judge Thornberry demonstrated the firmness of his dedication to the constitutional guarantees of equal treatment long before he left Congress to accept a Kennedy appointment as District Judge in 1963 and a Johnson appointment to the Fifth Circuit Court two years later. He has fought segregation in the schools, in bar associations and in many other areas.

In the days when the House Rules Committee was an anchor against legislative progress, he was alone among the Southerners on the liberal side. He was the sole Southern Democrat to back the Kennedy Administration in its fight for a Department of Housing and Urban Affairs. Clearly, his credentials go beyond the fact that he is the man Lyndon Johnson used to describe as "my Congressman."