

Mitchell Said to Confer With Warren on Fortas

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The controversy over Supreme Court Justice Abe Fortas's involvement with a \$20,000 foundation fee has begun to engage all three branches of the Government.

The executive, legislative and judicial branches all are understood to have taken part in recent days in secret consultations over what should be done about reports that Mr. Fortas accepted the fee from the Louis E. Wolfson Family Foundation.

Attorney General John N. Mitchell is understood to have met secretly last week with Chief Justice Earl Warren, at the behest of President Nixon, in a behind-the-scenes effort to get Justice Fortas to resign.

The Fortas controversy took on added dimension yesterday when two Representatives and a Senator made public statements on the matter.

Newsweek magazine, meantime, published in its current issue a report about the Mitchell-Warren meeting and details on a meeting President Nixon had with Republican Congressional leaders at which

the Fortas affair was discussed. Mr. Mitchell reportedly was instructed to tell the Chief Justice that the Justice Department has more serious information than has thus far been disclosed.

Newsweek said that President Nixon told Republican Congressional leaders last week that he did not want any impeachment proceedings begun and did not want to see a partisan fight against Mr. Fortas.

The Justice Department said late yesterday that it had no comment on the magazine report. White House spokesmen were not available immediately.

In the meantime, three legislators addressed themselves to the furor over Mr. Fortas:

¶ Representative H. R. Gross, Republican of Iowa, said that he had prepared articles of impeachment against Mr. Fortas and would present them in the House unless the jurist resigned.

¶ Senator Everett McKinley Dirksen, Republican of Illinois,

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suggested that the Senate Judiciary Committee might exercise its "oversight responsibilities" for the Supreme Court to inquire into the \$20,000 fee. Mr. Dirksen is a member of the committee and Republican leader of the Senate.

Representative Emanuel Celler, Democrat of Brooklyn, the chairman of the House Judiciary Committee, said he "hoped" Mr. Fortas would make "further explanation" of the fee this week.

It was disclosed last Friday that the Justice Department was investigating Mr. Fortas's relations with the Wolfson foundation to see whether any criminal laws had been violated.

The jurist has been under severe criticism since the publication of an article in Life magazine May 4 stating that he had received the fee from the Wolfson Foundation in 1966. Mr. Wolfson, a multimillionaire industrialist has since been imprisoned for stock manipulation.

Justice Fortas has acknowledged that he received the Wolfson family fee. But he said that he returned it and had committed no impropriety. He has declined further comment.

Life said that the fee was returned 11 months after Justice Fortas had received it.

Two Laws Cited

Justice Department lawyers were reported to be considering whether Mr. Fortas's relationship with the foundation could have conflicted with two Federal laws.

One forbids any Federal of-

icial to receive directly or indirectly any compensation from private parties in connection with any Government proceeding.

The other forbids Federal judges to practice law.

The Newsweek article, attributing its information to "one inside account," said that Mr. Mitchell was to tell Mr. Warren that "the facts were bound to come out eventually" and that it would be in Mr. Warren's own best interest to settle the matter now rather than leave the Court with a cloud over its head.

Mr. Mitchell hoped, the magazine continued, that the Chief Justice would lay these facts before Mr. Fortas with the suggestion that he resign.

"Quoting a participant at the weekly White House meeting of Republican Congressional leaders, Newsweek reported that President Nixon said he thought "it is most desirable not to involve this matter in partisanship."

"Of course," the President is quoted as saying, "you can't refuse to comment on the case when asked, but it would be too bad for the comments to come from just one party."

"I don't think that any action by the House should be on a partisan basis. Whatever happens, both parties should participate."

How Procedure Works

Impeachment proceedings must be initiated by a majority vote of the House of Representatives. Conviction requires a two-thirds vote of the Senate after a full trial has been held.

Only one Supreme Court Justice has been impeached. That was Samuel Chase, in 1805. He was charged with improper and arbitrary actions but was acquitted by the Senate.

Newsweek said that Mr. Nixon said he hoped no one would rush in with an impeachment resolution. He urged the Republican leaders not to give any "encouragement . . . to anyone doing something rash."

"By something rash," Newsweek says, "he plainly meant impeachment."

It reports that Mr. Nixon felt it would be "improper" for the executive branch to initiate any impeachment action because it would involve an in-

trusion into the separation of powers.

He is said to have added that an impeachment trial could, moreover, tie up the Senate for weeks, slowing action on his legislative program.

At one point, the magazine reported, Attorney General Mitchell was asked whether there were more developments in the Fortas matter that had not been brought to light in the Life article. He is reported to have said "Yes."

Malfesance Charged

Representative Gross said that his resolution urging the impeachment of Mr. Fortas accused the jurist of malfesance, misconduct and impropriety. He said that the principal point of the resolution was the acceptance of the \$20,000 fee but also mentioned \$15,000 paid to Mr. Fortas for a series of lectures

at American University Law School. This money was raised by one of Mr. Fortas's former law partners.

The Congressman declared that he would wait "a reasonable time" for Mr. Fortas to act but declined to say what he considered "a reasonable time" to be.

Mr. Fortas has given no indication that he is considering resigning.

Mr. Gross discussed his impeachment plans a few hours after Senator Walter F. Mondale of Minnesota became the first Democratic Senator to voice publicly the conviction that Mr. Fortas should resign.

At a news conference, Mr. Mondale described the situation as a national tragedy and said, "I think he should resign from the Court."

In suggesting that the Senate Judiciary Committee might ex-

ercise its powers of oversight in the affair, Senator Dirksen said that he would not initiate any move to get Mr. Fortas before the committee to explain the Wolfson fee.

And, he continued, he has seen no indication that Mr. Fortas intends to appear before it voluntarily.

Senator James O. Eastland, Democrat of Mississippi, has said that the Judiciary Committee would offer a forum for the Justice if he wanted it.

Traditionally, however, it is House committees that have inquired into the conduct of members of the judiciary, on the theory that Senators should stand aloof since they are potential judges in impeachment proceedings.

Senator Dirksen denied that Justice Fortas had been mentioned at the White House

conference of Republican Congressional leaders.

Representative Leslie C. Arends of Illinois, Republican whip in the House, indicated that the Justice's embarrassment was discussed, but not in the tone that Newsweek suggested.

"There was no suggestion that he resign," Mr. Arends recalled. "It was a question of whether he would resign—of what he would do himself. Everybody in the meeting was sitting tight, I'd say, wondering what the guy would do. . . ."

Asked whether information beyond the material that Life carried about Mr. Fortas was raised, Mr. Arends said:

"There was nothing particular, nothing definite. The Attorney General didn't say definitely he had more charges."