

The Fortas Shock Waves

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Capital Takes Hard Look at the Ethics Of Men and Balances of Government

By MAX FRANKEL

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WASHINGTON, May 15—It was not until the expected happened and Abe Fortas's resignation was announced this morning that Washington recognized the full import of what it had done to him, to the Supreme Court, to the delicate institutional balances of Government here, and to itself.

Yesterday the capital was still crying shame. The members of Congress had a tough time restraining those who were crying for blood. The Nixon Administration says it had an even worse time denying those who were crying for a full disclosure of every raw morsel of dirt.

Suddenly today, even hardened lawyers who never knew Abe Fortas said they were simply close to crying. And only partly over him, they said. Suddenly today, even the most bitter critics of the liberation rulings of the Warren court who now look to President Nixon to change its complexion, spoke earnestly of their hope that the sanctity of the High Court had been salvaged.

Suddenly today, even the congressional and political ethics here were swept up in the orgy of self-examination, wondering whether they must not get serious, at last, about requiring full financial disclosure from all members of Congress and other office holders and writing a reasonable code of conduct for all branches.

The record of ethical shocks here suggests that the emotions will fade quickly and that nothing much will be done. But for the moment, there were many who thought the Fortas case might have a more lasting impact.

Long a Way of Life

By its free and easy ways with power, influence and money, Washington seemed to feel a kind of communal responsibility for the fact that one of its most brilliant legal minds had been caught in a trap of tragic circumstance. Brokerage between the rich and the mighty for both noble and profitable causes has long been a way of life here for lawyers, for politicians and, apparently for judges.

The major politicians need to raise thousands and even millions of dollars to survive in the electoral process and they cannot avoid treating their most generous supporters as among their most important constituents, both in lobbying and in legislating.

The senior officials here, to be effective public servants, need a business that they can temporarily leave and, if they are to be fearless advocates, they need a private career to which they can return. Even lifelong civil servants or military officers look to the great corporations, foundations and other consumers of their public effort for private support after retirement or weariness.

Loans, contributions, stipends, fees, investment opportunities, tips, clients, contacts and compacts—they are the often indispensable and generally perfectly legal means by which political personages here

sustain whatever they seek to do, great or petty.

This city is littered with schemes of reform: for the conduct of judges, the sources of political funds, the business ties of legislators, the registration of lobbyists.

A career foreign service officer cannot even take \$10 as fee for a speech to the Elks. A Senator thinks nothing of reporting \$20,000 in lecture fees for addressing supporters or even favor-seekers; and he did not have to report it at all until this year.

If Mr. Fortas had been investigated or hauled up for impeachment by the House Judiciary Committee, he would have been judged by 35 men of whom 19 combine membership in Congress with private legal practice. The chairman, Representative Emanuel Celler of Brooklyn, says he avoids conflicts by leaving matters involving the Federal Government to his partners, organized in a separate firms at the same address and telephone numbers as the one in which he participates.

People here have complained about appearances and customs of the past, but today a large number wondered whether the Fortas case might not finally move the separate branches of the Federal Government toward major change.

The Difficulty of Change

Change has been difficult, if not impossible, because a whole system of operation has evolved around current practice. At least a few observers and legislators wondered whether this was not the cause of student alienation and citizen suspicion of established power and Government here.

Until today, President Nixon tried to hold himself aloof from the Fortas affair, though the Administration was plainly pressing for the Justice's resignation. The White House was reluctant, in a period of tension, to break the institutional lines between executive and judiciary. And Justice Fortas, in a final service to the Court, quit in a way that he hoped might protect the judiciary's independence.

Mr. Nixon can now fill two of nine seats on the court—the liberal Fortas and Warren seats—and thus later its philosophical orientation for a long time. But he may, in today's climate, also feel impelled to lead a campaign for new standards of official conduct and disclosure that could endure even longer.