

# BAR ETHICS PANEL CRITICIZES FORTAS

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## Committee's Opinion on His Relationship to Wolfson Carries No Sanction

By FRED P. GRAHAM

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WASHINGTON, May 20—

The ethics committee of the American Bar Association, citing eight canons of judicial ethics, concluded today that former Justice Abe Fortas's relationship with Louis E. Wolfson was "clearly contrary" to the ethical code.

The opinion carries no sanctions. The association is a voluntary group that has no enforcement power beyond expulsion. Mr. Fortas let his membership lapse after he joined the Supreme Court in 1965.

The opinion by the association's Committee on Professional Ethics was rendered at the request of William T. Gossett of Detroit, president of the association. He had been asked by Senator John J. Williams, Delaware Republican, to give his association's views on Justice Fortas's conduct.

Last weekend, at its regular quarterly meeting in Chicago, the committee unanimously agreed on its conclusion, which was based on the explanation given in Justice Fortas's farewell letter to Chief Justice Earl Warren.

Although Mr. Fortas resigned

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# Bar Panel on Ethics Criticizes Fortas for Link With Wolfson

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on Wednesday, before the committee's meeting, the committee advised Mr. Gossett that it had decided to go ahead with the opinion so "the ethical issues shall remade clear for the legal profession, for members of the judiciary and for the public."

"It is our opinion," the committee concluded, "that the conduct of Mr. Fortas, while a Supreme Court Justice, described in his statement of the facts, was clearly contrary to the canons of judicial ethics, even if he did not and never intended to intercede or take part in any legal, administrative of judicial matters affecting Mr. Wolfson."

In his letter to the Chief Justice, Mr. Fortas explained that he had agreed with the Wolfson Family Foundation to receive \$20,000 for his and his wife's lifetime, and that in 1966 he received and later paid back one \$20,000 installment.

He said that the payments were to be for research for and advice to the foundation, and that he had not interceded for Wolfson with the Government. Wolfson was later convicted of selling unregistered stock and is now in prison.

Many leading figures in the bar association are in Washington now for the annual meeting of the American Law Institute, where there has been some feeling that Mr. Fortas may not have been accorded due process by the ethics committee.

### Three Canons Cited

Informal opinions are routinely issued in response to members requests, but usually their purpose is to advise the member of the propriety of contemplated conduct, rather than to judge past conduct.

As association spokesman, Donald Hyndman, said that Mr. Fortas had apparently not been given notice of the committee's meeting or an opportunity to state his case, because it relied upon his own version as stated in his letter.

The ethical canons cited in the opinion stressed the duty of a judge not only to avoid improprieties in his official conduct but also to avoid any acts that might give the appearance of improprieties.

It emphasized by underlining portions of three canons:

¶Canon 4's statement that a judge's conduct should be free of the appearance of impropriety, "and his personal behavior, not only upon the bench and in the performance of judicial duties, but also in everyday life, should be beyond reproach."

¶Canon 24's statement that a judge should not "accept inconsistent duties; nor incur obligations, pecuniary or otherwise, which will in any way interfere or appear to interfere" with his devotion to his duties.

¶Canon 34's declaration that "in every particular his conduct should be above reproach."

The opinion was signed by Benton F. Gates of Columbia City, Ind.; Thomas J. Boodell of Chicago; C. A. Carson 3d of Phoenix; Charles W. Joiner of Detroit; Kirk M. McAlpin of Atlanta; Samuel P. Myers of Racine, Wis., and Floyd B. Sperry of Bismark, N. D.

Walter P. Armstrong Jr. of Memphis, chairman of the committee, did not take part because Mr. Fortas is a former resident of Memphis.

It was learned at the law institute meeting today that attorneys for Mr. Fortas's former Washington law firm, Arnold & Porter, were soliciting support from prominent lawyers across the country in an attempt to persuade the Justice Department to drop a grand jury investigation of two members of the firm.

### Lawyers' Opinions Sought

Arthur H. Dean of the New York law firm of Sullivan & Cromwell is representing the two lawyers, Paul A. Porter and Paul S. Berger.

A Federal grand jury in Cleveland is investigating their handling of a case in Toledo in 1967, when their law firm advised clients to respond to a Justice Department subpoena by producing documents other than those that were being sought by the Government.

It has been learned that Mr. Dean has presented the facts to ten leading lawyers across the country and asked them to state whether the Government subpoena in their opinion was so ambiguous that the Arnold & Porter lawyers could have responded as they did in good faith.

Among those who have been asked for statements are two New York lawyers who have served as president of the A.B.A., Whitney North Seymour and Orison S. Marden.

Mr. Dean and other attorneys representing Mr. Porter and Mr. Berger are understood to have met with Attorney General John N. Mitchell two weeks ago in an effort to convince him that the lawyers' actions were proper and the matter should be dropped.

They are to meet with him again in two weeks, when they will present the opinions from the 10 leading lawyers, and will ask that charges not be presented to the grand jury.