

FREEDOM OF OPINION

What price Justice: the story of Abe Fortas

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Recently, students and others at UCLA were privileged to hear the 'honorable' Abe Fortas give an address on the subject of the Law. The 'honorable' Fortas was Lyndon B. Johnson's first appointment to the Supreme Court and is thus entitled to be called "Justice Fortas." No one who knows him would ever call Fortas "Honest Abe."

Abe Fortas is the Washington friend to whom Lyndon B. Johnson is most indebted. It is interesting that Justice Fortas should come to visit with us in these crucial days when all the members of the Great Society have so much at stake and elections coming in November. Judge Fortas lectured at noon in UCLA's Grand Ballroom on the majesty of the Law unfolding and how the right to counsel has been broadened thanks to his efforts in the famous case of Gideon vs Wainwright. Informed observers report that on the preceding day he lectured at USC on the subject of Civil Disobedience and in between times got together with Carmen Warshaw of Harvey Aluminum, ex-Governor Brown, and other local luminaries of the Great Society.

Justice Fortas was here to plead a case for Hubert and to give heart to the Johnson forces who felt abandoned since their leader absconded two weeks ago. This is not the first trip he has made on Johnson business in an election year, nor is it the first time Fortas has used Civil Rights for his smokescreen. It was Fortas who proposed to Johnson the idea of a sham investigation by a Liberal Commission to look into the assassination of President Kennedy.

Fortas was the lawyer for Bobby Baker in November, 1963 when the influence-peddling and pimping was first coming out in press reports of the Senate Rules Committee hearings. Counsel Fortas withdrew from the Baker case as soon as he learned that President Kennedy had been shot and heard of Johnson's succession. He gave the poetic explanation that "a conflict of interest (might occur) due to certain assignments I have undertaken for the new administration."

Fortas worked with President Johnson on the first speech he delivered to Congress after the assassination and it was Fortas who suggested a special Presidential Commission to make the investigation. Such a Commission would preempt the ground of any other investigation and bring rumors about the murder under

control. It would prevent publicity-seekers from using any other investigating agencies such as the House Un-American Activities Committee to confuse the issues and would preclude mystery buffs and individualist zealots from digging around in such a politically sensitive area of concern.

Fortas pointed out that the credentials of the members of such a Committee should be impeccable. It should control the developing controversy about the Kennedy slayings "and give a single report that would command the Nation's full confidence." For a successful coverup of the entire assassination, no coverup should seem possible. Fortas chose the liberal jurist, Chief Justice Earl Warren, to lead the closing of this most dangerous credibility gap. President Johnson, keeper of the Kennedy flame, urgently needed to settle the rumors about the murders in Dallas. A solution had to be found to this very complex and involved mystery, a politically satisfying solution.

Chief Justice Warren did not want to head the President's Commission, but Johnson pleaded with him. In his role as President and in the name of the American people, Lyndon Johnson asked Earl Warren to assume this burden in addition to his other duties, and it was on these terms that Warren accepted. The President put special emphasis on the great trust people in foreign lands would have in an investigation presided over by Warren. As the Commission's Chief Counsel Rankin explained it later: "Warren accepted only with the greatest reluctance, because the President made it plain to him that the Nation's prestige was at stake."

The Warren Commission was appointed "...to satisfy itself that the truth is known, as far as it can be discovered..." about the Kennedy assassination and the events related to it. Allen Dulles pointed out that "...an atmosphere of rumors and suspicion interferes with the functioning of government." John McCloy said "...it was of paramount importance to show the world that America is not a banana Republic, where a government can be changed by conspiracy." Senator Russell and Congressman Boggs agreed with Senator Cooper that one of the Commission's most important tasks was; "To lift the

cloud of doubts that had been cast over American institutions." The other members of the Warren Commission all agreed with Congressman Ford who said a major concern of the investigation was

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to dispel damaging rumors. The Warren Commission was a non-partisan Lyndon Johnson-style investigating committee whose staff of leading lawyers was placed with the help of Abe Fortas.

Before Fortas suggested the Warren Commission to Johnson, the new President had been preparing to call an "all Texas" investigating commission. The Worker, New York Communist paper, had first suggested the Warren Commission and Fortas' right-wing enemies argue that

here is proof positive of his allegiance to the "International Communist Conspiracy." Saner spirits might find it ironic that The Worker's idea should have been so deftly twisted thru the combination of Fortas' suggestion and Lyndon Johnson's infinite capacity for corrupting liberals. The Warren Commissioners, as members of the American Establishment, shrank from a line of inquiry which would have discredited the Dallas Police Department, the CIA, the FBI, the Secret Service and, quite possibly, Lyndon B. Johnson himself. To make Oswald the scapegoat was politically the best solution. Continuity in government is important to honorable men. Abe Fortas' Warren Commission idea permitted Lyndon Johnson to pick up on the news initiative, an advantage he did not lose until some time after the 1964 election.

Had things been different, Fortas might have been LBJ's Attorney General. As it was he was Johnson's first appointee to the Supreme Court. When Justice Goldberg resigned to fill Adlai Stevenson's place at the United Nations the President gave his faithful suppressor of investigations a place on the highest court in the land.

Fortas had to be confirmed by the Senate, and some of the Senators who examined him wanted to know if he thought it proper for a Supreme Court Justice to go around killing news stories about homosexual perversions. The prospective Justice explained that he knew nothing about Jenkins' indecent gestures in the YMCA. He said "Jenkins was so distraught I could not get a straight

answer from him. But I was desperately concerned for the man's wife and six children." Fortas had been dispatched with Clark Clifford to persuade the papers to kill a hot story about the arrest of one of Johnson's closest aides for sexual perversion (second offense). These two Washington lawyers spent the day of October 14, 1964 trying to suppress the story. They could not put the lid on such an interesting item and, as the news began to break, Jenkins was spirited off to George Washington University Hospital. He said he was suffering from "fatigue and exhaustion."

Jenkins was treasurer of the LBJ Company and had been Johnson's confidential assistant for 25 years. LBJ told Fortas to get his resignation and he ordered the FBI to hold an investigation which would show that Jenkins had never compromised U.S. security. FBI Director J. Edgar Hoover sent Jenkins a bouquet of flowers in the hospital. The FBI investigation showed that Jenkins' homosexual activities had never compromised National Security.

As for his complicity in trying to suppress the whole affair Fortas said: "I am not ashamed. I am proud of it." The Senators would confirm Fortas as a Justice in the Supreme Court after they heard his explanation of his friendship with President Lyndon Johnson.

"I value highly my friendship with the President, but there is no way that relationship could enter into my judgement on the court. I have no business relationship with the President or any member of his family."

Fortas' wife is one of Washington's shrewdest tax lawyers and she does the Johnson tax return every year. Fortas himself worked out the complex trust to manage the LBJ Company while LBJ is President.

Just before the Jenkins bombshell erupted Fortas had arranged an out-of-court settlement for the civil lawsuit that started the whole Bobby Baker scandal. Fortas was able to do a lot more for Baker after he left Bobby's employ than ever he could as Baker's lawyer. With Fortas' help Baker's counsel arranged to settle the \$300,000 damage suit (for sale of influence which Baker didn't deliver) for \$30,000. A major condition was that all concerned maintain absolute secrecy until after the Presidential elections. If any word about the settlement leaked out the deal would be off and Baker would take his chances in court.

Were it not for Abe Fortas, LBJ would not have become a Senator when he did in the election of 1948. Fortas just happened to be in Dallas at the right time and he intervened as soon as it seemed that the fraudulent Johnson votes in



Jim Wells County might be thrown out. Moving quickly, Fortas took the case first to an appellate court, then to Supreme Court Justice Hugo Black on an emergency basis. Fortas argues that there was a conspiracy to accuse Johnson of fraud, and when Black heard this he set aside the injunction against printing Johnson's name on the ballots. In the primary election that Johnson won by 27 stolen votes, it was Abe Fortas' influence in Washington and his legal maneuvering that made the difference.

Fortas is a millionaire as well as a kingmaker. He has grown rich manipulating rules and suppressing scandals for the wealthy and the ambitious. He is one of the men who have made America what it is today.

As he told the students at UCLA: "The state is an instrument for achieving the welfare of the individual. . . . a crisis of the state's existence occurs every time someone breaks one of its rules."