

APR 17 1972

NYTimes

## INQUIRY ON FORTAS DESCRIBED IN BOOK

Author Tells of Nixon Action  
and Rehnquist Opinion

By FRED P. GRAHAM

Special to The New York Times

WASHINGTON, April 16—A new book about former Justice Abe Fortas's resignation from the Supreme Court says that when he was being investigated the Justice Department William H. Rehnquist, then an Assistant Attorney General, advised Attorney General John N. Mitchell that nothing in the Constitution would prevent a Justice from being prosecuted.

The book, "A Question of Judgment" by Robert Shogan of Newsweek magazine's Washington bureau, says that the Nixon Administration took a series of steps that led up to Justice Fortas's resignation on May 14, 1969.

According to Mr. Shogan, some news leaks that contributed to rising pressures for the resignation came from President Nixon, who informed gossipy Congressmen that more disclosures were to come and that Mr. Mitchell had given Chief Justice Earl Warren information against Justice Fortas.

The book also says that Mr. Mitchell breached the Justice Department's usual no comment policy by announcing that Justice Fortas was being investigated.

Mr. Shogan concluded that "the Administration elevated cynicism to the level of public policy" and "did too much and talked far too much about what it did."

### Memo to Mitchell

Mr. Rehnquist, who was Mr. Mitchell's legal adviser before becoming a Supreme Court Justice himself, did not take part in the Justice Department's investigation of Justice Fortas.

When Mr. Mitchell learned in April, 1969, of an upcoming Life magazine expose that would disclose a \$20,000 payment to Justice Fortas from The Family Foundation of Louis E. Wolfson, a stock manipulator under Federal investigation, the Attorney General turned to Mr. Rehnquist for legal advice.

According to the book, Mr. Rehnquist gave Mr. Mitchell a memorandum saying that if Justice Fortas had tried to block the prosecution of Mr. Wolfson the Constitution would not require that he be removed from the bench by impeachment before criminal charges were brought.

One of the most enthusiastic figures in the Justice Department's investigation of Justice Fortas was said to be Assistant Attorney General Will R. Wilson, then the chief of the Justice Department's Criminal Division.

According to the book, Mr. Wilson reacted to the news of the forthcoming Life article by considering calling Justice Fortas before a grand director of the Federal Bureau of Investigation, J. Edgar Hoover, for assistance in conducting the investigation.

But Mr. Mitchell, according to the book, ordered Mr. Wilson to take "the indirect approach," Mr. Wilson later explained. Mr. Shogan said that President Nixon made it clear to Republican Congressional leaders that the Government should work for Justice Fortas's resignation, not his impeachment or prosecution.

### Clark Role Described

According to the book, former Attorney General Ramsey Clark knew almost as much about the links between Wolfson and Justice Fortas as the Nixon Administration did, but he concluded that no law had been violated and did nothing. Mr. Clark is quoted as saying "that he was told about the payment to Justice Fortas in November, 1968, and that he went to the Justice's house to ask about it. Justice Fortas explained that he had returned the \$20,000 because he found he could not perform services for the foundation in return."

Justice Fortas, according to the book, did not tell Mr. Clark two points that were disclosed shortly before he resigned — that he had kept the \$20,000 for 11 months and that the Wolfson Foundation had agreed to pay him and his wife \$20,000 a year for their lives.

Mr. Fortas, who is now a Washington lawyer, declined to be interviewed by the author of the book, which is to be published next week by Bobbs-Merrill. Last spring Mr. Fortas wrote Mr. Shogan and the publishing company, saying that if warranted he would hold them "responsible for any actionable statements relating to me."