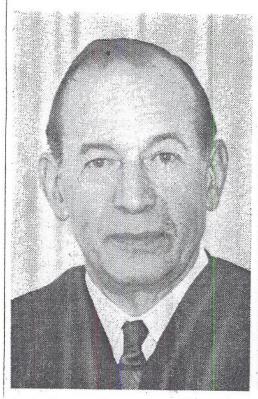
JOHNSON APPOINTS FORTAS TO HEAD SUPREME COURT; THORNBERRY TO BE JUSTICE



Justice Abe Fortas in a recent picture



Judge Homer Thornberry in Texas yesterday

OPPOSITION VOICE

Some G.O.P. Senator to Fight Confirmation - Dirksen For It

Warren-Johnson exchange o letters is on Page 34.

By FRED P. GRAHAM

WASHINGTON, June 26 -President Johnson nominate Associate Justice Abe Fort: today to succeed Earl Warre as Chief Justice of the Unite States.

To fill Justice Fortas's se on the Court the Presider

nominated Judge Homer Thor: berry, a former Texas Co: gressman who is now a men ber of the United States Cou of Appeals for the Fifth Circui

If confirmed by the Senat Justice Fortas will become th first Jewish Chief Justice ar the 14th man to occupy tl nation's highest judicial offic He, like Judge Thornberry, an old and close personal frier of Mr. Johnson's.

Opposition to both nomin: tions was immediate. Eightee of the 36 Republicans in th Senate had vowed by nightfa that they would oppose the "lame duck" President's action perhaps by a filibuster, an there were strong indication that several others might joi forces with them.

Approved by Leadership

However, when the Presider announced the nominations th morning at an informal Whit House news conference, he sai that he had conferred in ac vance with leaders of both pa ties in the Senate and that I thought the nominations woul be confirmed.

Initial reactions in the Senat indicated that the leadershi was pleased with the nomina tions, which pair a judicial 1 beral, Justice Fortas, with Southern moderate, Thornberry.

Everett McKinley Dirkser the Senate minority leade praised Justice Fortas as very able lawyer" with "sound" philosophy and calle Judge Thornberry a "very soli, citizen." The Senate majorit leader, Mike Mansfield, agree that the nomination were cer tain to be approved.

The nominations combine two characteristics of man during Mr. Johnson's Presiden —a tendency to make appoin ments that are historic first

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and one to place close personal associates in high office.

Before this morning's news conference, President Johnson had not commented on the widespread reports that Chief Justice Warren had submitted his resignation.

'Solely Because of Age'

The Persident read the Chief Justice's letter, which he said he received June 13. The letter explained that the 77-year-old Justice planned to retire "solely because of age."

take over.

President Johnson released a letter from him to the Chief Justice, in which he praised the "exceptional distinction" of Mr. Warren's service. Mr. Johnson said he would accept the resignation, effective when the Chief Justice was sworn

Justice Fortas, who was 58 years old on June 19, has been a close friend of Mr. Johnson for three decades. He has served as Mr. Johnson's personal lawyer and has advised the President on a wide range of affairs, both before and after Mr. Fortas became a justice.

In the three years since Mr. Johnson appointed him to the Court, Justice Fortas has frequently lined up with Chief Justice Warren and other liberal jjustices.

When word of Chief Justice Warren's resignation recently leaked into print, there were reports that he was concerned

hierarchy to the highest.

Prior to his first judgeship,
Mr. Thornberry served for 15
years in the Congressional seat
that Mr. Johnson vacated when
he was elected to the Senate in
1948.

President Johnson associated

President Johnson appointed him to the Federal District Court for the Western District of Texas in December, 1963, and elevated him to the court

of appeals in July, 1965.
On the fifth circuit, Judge Thornberry has generally voted on desegregation issues with the majority, which has the most liberal record on racial questions of any appeals court. He has occasionally been reversed by the Supreme Court on the ground that he had gone too far.

Judge Thornberry said today

Judge Thornberry said today in Austin, Tex., that Mr. Johnson telephoned him this morning to say that he was nominating him for the Supreme Court.

"Homer, I'm sending in your name," Mr. Johnson said.

Judge Thornberry said: "I was just overwhelmed."

Hearings before the Senate

Hearings before the Senate Judiciary Committee are not expected to begin until after the long July 4 weekend. Congress is aiming for adjournment by Sept. 1.

Although Justice Fortas is already a member of the Su-preme Court, the office of Chief Justice is a distant office, men-tioned separately in the Constitution, and he must be con-firmed again.

He presumably will retain he presumably will retain his post as Associate Justice until the Senate acts. As Chief Justice he would receive an annual salary of \$40,000,—a \$500 raise from his present compensation—and would be given the use of the Supreme Court's only chauffered limpusing ousine.

Despite these perquisites, the

"I have enjoyed each day of the fifteen years I have been here," Chief Justice Warren wrote.

But he noted that when he entered public life more than a half-century ago, 150 million of the 200 million iving Americans had not yet been born. He said a younger man should now take over.

That Richard M. Nixon might be elected President and that he wished to step down now so that Mr. Johnson could appoint a liberal to take his place.

Judge Thornberry, 59, has received three Federal judicial appointments from President Johnson, moving from the low-set level of the Federal judicial proposition of the Federal judicial appointments from President Johnson, moving from the low-set level of the Federal judicial hierarchy to the highest.

Prior to his first judgeship, Mr. Thornberry served for 15

Both Held Qualified

Albert E. Jenner of Chicago, chairman of the American Bar Association Committee on the Federal Judiciary, said that the 12-member panel had conferred to a conference telephone colling. on a conference telephone callearly this morning and unan-imously found both men qual-

The Government traditionally asks the bar committee to rate prospjective judicial nominees for the lower Federal judiciary,

and avoids appointing persons
who are deemed unqualified.
The hurried polling of the
committee on Supreme Court appointments has also become a recent tradition but is considered no more than a formality.

Chief Justice Warren was in San Francisco today. In a statement issued through his office here, he praised Justice Fortas as a scholar, an administrator and "a great lawyer, and I know he will be a great Chief Justice"

Chief Justice."

He also commended Judge
Thornberry for his record in
Congress and on the bench. "I feel confident he will serve well in the Justiceship vacated by Mr. Justice Fortas," he said.