

Johnson's Choice

Fortas Nominated As Chief Justice



AP Wirephotos

ABE FORTAS. HOMER THORNBERRY
Chief justice-designate and his successor in the court

A Texan Named To Court

New York Times

Washington

President Johnson nominated Associate Justice Abe Fortas yesterday to succeed Earl Warren as Chief Justice of the United States.

If confirmed by the Senate, Fortas will become the first Jewish Chief Justice of the Supreme Court and the 14th man to occupy the Nation's highest judicial office.

To fill Fortas seat on the high court the President nominated Judge Homer Thornberry of the United States Court of Appeals for the Fifth Circuit. He is a former Texas congressman who, like Fortas, is an old and close personal friend of Mr. Johnson's.

TRENDS

The appointments combined two elements characteristic of Mr. Johnson's presidency — tendency to make appointments that are historic firsts, and to place close personal associates in high office.

When he announced the appointments yesterday morning at an informal White House press conference, Mr. Johnson said that he had conferred with leaders of both

parties in the Senate and that he thought the nominations would be confirmed.

Initial reactions in the Senate indicated that the leadership was pleased with the nominations, which pair a judicial liberal, Fortas, with a Southern moderate, Thornberry.

The Senate minority leader, Everett M. Dirksen (Ill.), praised Fortas as "a very able lawyer" with a "sound" philosophy, and called Thornberry "a very solid citizen."

The Senate majority leader, Mike Mansfield (Mont.), agreed with Dirksen that the

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nominations would be approved.

However, a nucleus of about 18 Republicans served notice that they would oppose the nominations and hinted that they might filibuster to block them.

Hearing before the Senate Judiciary Committee are not expected to commence until after the long July 4 weekend. Congress is aiming for an August 1 adjournment.

At his news conference, President Johnson made his first public comment on the widespread reports that Warren had submitted his resignation.

REASON

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

"I have enjoyed each day of the 15 years I have been

here," he wrote. But he noted that when he entered public life more than a half-century ago, 150 million of the 200 million living Americans were not yet born. He said a younger man should now take over. Fortas is 58.

Mr. Johnson released a letter than he had sent to Warren in which he praised the "exceptional distinction" of his service. Mr. Johnson said he would accept the resignation, when the new Chief Justice is sworn in.

FRIEND

Fortas has been a close friend of Mr. Johnson's for three decades. He has served as his personal lawyer and has advised him on a wide range of affairs.

In his three years on the court, Fortas has frequently lined up with Warren and other liberal justices.

Judge Thornberry, 59, has received three Federal judicial appointments from Mr. Johnson in less than five years, moving from the low-

est rung of the Federal judicial hierarchy to the highest.

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

APPOINTMENTS

Mr. 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, Thornberry has generally voted with the majority on desegregation issues. The Fifth Circuit has the most liberal record on racial questions of any appeals court. Thornberry has occasionally been reversed by the Supreme Court for going too far.

Thornberry said in Austin that Mr. Johnson telephoned yesterday morning to say that he was nominating him for the Supreme Court.

"Homer, I'm sending in your name," Mr. Johnson said. The judge said, "I was just overwhelmed."

DISTRICT

Although Fortas is already a member of the Supreme Court, the position of Chief Justice is a distinct office, mentioned separately in the Constitution, and he must be confirmed again by the Senate.

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 chauffeured limousine.

Although there is an effort among some Republicans to block Mr. Johnson's "lame duck" appointments, the trend has been against such efforts. Only one nominee in this century, John J. Paker in 1930, has failed to be confirmed.

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