

Life Says Fortas Received And Repaid a Wolfson Fee

By FRED P. GRAHAM

6 MAY 69

Special to The New York Times

WASHINGTON, May 4—Life magazine said today that in 1966 Justice Abe Fortas accepted, but later returned, a \$20,000 fee from the family foundation of Louis E. Wolfson, the multimillionaire industrialist who has since been imprisoned for stock manipulations.

According to the article, Jus-

*Text of the Fortas statement
is printed on Page 23.*

Justice Fortas kept the money for 11 months and returned it after Wolfson had been indicted on Federal charges of selling unregistered securities.

The article said that no evidence had been found "that Wolfson hired Fortas to fix his case."

But it said that during the 11 months "Justice Fortas's name was being dropped in strategic places" by Wolfson and his co-defendant, Elkin B. Berbert, "in their efforts to stay out of prison."

Justice Fortas issued a statement from his office in the Supreme Court this afternoon in which he declared that since he joined the Supreme Court in 1965 "I have not accepted any fee or emolument from Mr. Wolfson or the Wolfson Family Foundation or any related person or group."

However, his statement added that "in 1966, in the hope that I would find time and could undertake, consistently with my court obligations, research functions, studies and writings connected with the work of the foundation, the Wolfson Family Foundation tendered a fee to me."

"Concluding that I could not undertake the assignment, I returned the fee with my thanks," Mr. Fortas said.

Justice Fortas added that he had no reason to believe that the tender of the fee had been motivated by a belief that he would intervene on behalf of

Continued on Page 22, Column 1

Life Asserts Fortas Took and Repaid Wolfson Fee

Continued From Page 1, Col. 7

Wolfson, and that he had not done so. The statement did not say if Justice Fortas kept the money for 11 months, as the article said he had.

He was not available for further comment, and the Supreme Court's press spokesman, Banning E. Whittington, declined to elaborate on the written statement.

The Justice Department released a statement, that it was "aware of the content of the article in Life magazine and currently has the matter under consideration." Its spokesman would not say what allegations in the article prompted the Government to place the matter under consideration.

Just last week Justice Fortas's office denied rumors that he planned to resign from the Supreme Court when the present Court term ended in mid-June.

The events related in the article took place during a time when Justice Fortas was widely known to enjoy high influence at the White House, where President Johnson let it be known that he still relied upon the advice of the man whom he had selected as his first nominee for the Supreme Court.

Writer a Pulitzer Winner

The Life article was signed by William Lambert, a Pulitzer-Prize-winning investigative reporter, who has written a number of articles on questionable activities by public figures. The magazine has featured these articles recently in a promotional campaign aimed at increasing Life's appeal to advertisers.

Much of the information appeared to have been obtained from Alexander Rittmaster, a Wolfson associate who had been indicted with him and who later testified for the Government against him.

According to the article, the Fortas-Wolfson relationship began "as early as December, 1964," when the Justice's former law firm, Arnold, Fortas & Porter, began to represent Wolfson in connection with his difficulties with the Securities and Exchange Commission.

In his statement today, Justice Fortas said that his law firm was retained in 1965 "in connection with civil litigation by one of Mr. Wolfson's companies."

The Life article said that on Jan. 3, 1966, three months after Justice Fortas took his judicial



Justice Abe Fortas

oath, a check for \$20,000 was drawn to him personally on the account of the Wolfson Family Foundation and signed by Gerbert as foundation treasurer.

It was endorsed with the Justice's name and deposited in his personal bank account, the article said.

In 1966—the year in which Justice Fortas was paid the \$20,000 by the foundation—its total grants for charity, scholarships and gifts came to \$77,680, the article said.

On June 14, 1966, Justice Fortas flew to Wolfson's thoroughbred horse-racing farm near Ocala, Fla., for a three-day visit with Wolfson, Gerbert and members of the Wolfson family, the article said.

Letter Is Quoted

It quoted from a letter from Justice Fortas to Mr. Lambert, stating that during the visit the Justice had discussed foundation matters but did not "participate in any of Mr. Wolfson's business or legal affairs."

The article quotes Rittmaster as saying that Gerbert said that Justice Fortas had discussed Wolfson's legal troubles during that visit.

Rittmaster was not present. He quoted Gerbert as saying that the discussions had been held. Rittmaster also said that Wolfson had said that the charges would be quashed "at the top," and that Wolfson had said Justice Fortas was "furious" when the S.E.C. pressed its investigation of Wolfson's activities.

The article concluded: "Wolfson's reputation and his troubles with the S.E.C.

were well known in financial and legal circles. Fortas's questionable association with such a man was rendered even more serious by the fact that money passed between them.

"And if Rittmaster is to be believed — that Wolfson and Gerbert were using Fortas's name to calm their troubled co-conspirators and keep them from cooperating with Government prosecutors — the relationship has far more serious consequences."

Tax Returns Cited

On Sept. 8, 1966, Wolfson and Gerbert were indicted for selling unregistered securities. On Dec. 22, according to the article, Justice Fortas paid back the \$20,000 to the Wolfson foundation with a personal check.

The foundation's Federal tax information return identified a \$20,000 item in 1966 as an "exchange" and carried it as an asset. The article said that it appeared to be a prepayment for services rendered, and that it disappeared in the foundation's return for 1967, indicating that it had been repaid.

Wolfson and Bergert were convicted in September, 1967, of having sold unregistered shares of Continental Enterprises Inc., a Jacksonville, Fla., company in which Wolfson was a controlling shareholder.

He drew a one-year prison sentence and a \$100,000 fine. Gerbert was sentenced to six months in jail and a fine of \$50,000.

Arnold & Porter, Justice Fortas's former law firm, was listed as attorneys of record in Gerbert's appeal.

When the Supreme Court denied review of the two men's appeal last April 1, the Court's order announced that Justice Fortas had not taken part in consideration of the case. This is routinely done by Justices who have had a previous association with a party or a case.

Wolfson Imprisoned

Wolfson entered the minimum security Federal prison at Eglin Air Base near Pensacola, Fla., on April 25 of this year.

He has also been sentenced to 18 months in jail for perjury and conspiracy to obstruct justice in an investigation by the Securities and Exchange Commission and for filing false company reports, all in connection with the now-defunct Merritt-Chapman & Scott Corporation.

That is the case in which Rittmaster was indicted as a co-defendant. It is still on appeal.

In a separate box the magazine quoted two of the canons

of judicial ethics of the American Bar Association:

"Canon 4: A judge's official conduct should be free from impropriety and the appearance of impropriety; he should avoid infractions of law; and his personal behavior, not only upon the bench and in the performance of judicial duties, but also in his everyday life, should be beyond reproach."

"Canon 24: 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 the expeditious and proper administration of his official function."

Both canons were cited last summer by opponents of President Johnson's nomination of Fortas to be Chief Justice after it had been disclosed that Justice Fortas had accepted \$15,000 for conducting a seminar at the American University Law School.

The money had been collected by one of his former law partners, Paul A. Porter, from five wealthy corporate magnates. The son of one of the contributors, a Texas millionaire, Troy Post, was then appealing a Federal criminal conviction through the courts.

Others were associated with corporations that were involved in various dealings, including litigation, with the Federal Government.

The disclosure that Justice Fortas had accepted this money was one of the key factors that led to the Senate's refusal to confirm his nomination as Chief Justice.

Last Oct. 1, supporters of the nomination failed in their efforts to break a filibuster by its opponents. The following day, President Johnson withdrew the nomination at Justice Fortas's request.