

DREW PEARSON

Warren Favors Ethics Code for Judges

WASHINGTON — Inside fact is that Chief Justice Earl Warren for six years quietly has been supporting a law to set up a code of ethical conduct for the federal judiciary. If this had been adopted there would have been no Fortas case, for all judges would have been required to file for public inspection their outside income.

A similar code now has been adopted for the House of Representatives following the Thomas Dodd and Adam Clayton Powell investigations and is the healthiest development on Capitol Hill for honesty in government in congressional history.

Unfortunately, the Senate, despite public indignation over Sen. Dodd's behavior, did not go as far as the House. While senators are required to list such outside income as book royalties, magazine and lecture fees, they are not required to publish their much bigger and more vital income such as legal retainers, stock and bond investments.

Sen. Everett Dirksen of Illinois is not required, for instance, to list the income from his Peoria law firm despite suggestion he sometimes goes to bat for his law clients on the floor of the Senate.

CHIEF JUSTICE WARREN'S Concern over a judicial code of ethics stems from the fact that there is a borderline area, not clearly defined, in which judges may receive fees. Fortas was in this borderline area.

Such a case was that of Judge Harold Medina of the U.S. Court of Appeals in New York, who during most of his judicial career was vice-president of the J. A. Medina Coffee Co. Judge and Mrs. Medina also were featured in a paid Pan American Airways advertisement carried by Time magazine in January, 1954, promoting travel on Pan Am. That same week an antitrust suit was filed by the Justice Department against Pan Am in the Southern District of New York, the jurisdiction in which Judge

Medina sat.

DURING THE Roosevelt administration there was a tough crackdown on judicial corruption — the most severe crackdown in American history. Judge Martin Manton of the United States Court of Appeals in New York was convicted of taking a bribe. U.S. District Judge Albert Johnson in Pennsylvania retired after impeachment proceedings were started against him. Judge Warren Davis of the Third Circuit Court of Appeals retired after Attorney General Francis Biddle recommended his impeachment.

United States District Judge John P. Nields in Delaware retired after an investigation was started of his decisions, one of them being



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a delay granted in the anti-trust suit against the Radio Corp. of America after RCA's president, David Sarnoff, paid \$5,000 apiece to Sen. George Moses of New Hampshire and Sen. John Townsend of Delaware, both big wheels in the Republican Party.

On the Supreme Court during Roosevelt's day, Justice Pierce Butler put himself in a position of obvious prejudice in a 1936 ruling in which the Great Northern Railroad was given a \$10 million tax break. Butler had once been an attorney for the Great Northern and other railroads and had promised the Senate subcommittee which investigated him prior to confirmation that he would step aside on cases involving the railroads.

Once the senators who sat on that committee had died Butler reneged on his promise and actually wrote the majority opinion in the Great Northern case. He was joined in his decision by Justice Josephus Roberts, who had been counsel for the Pennsylvania Railroad for 30 years; Justice Willis Van Devanter, once attorney for Union Pacific, and Chief Justice Charles Evans Hughes, who had represented many railroads. They all voted with their old clients.

Justice Van Devanter of Wyoming was also criticized for taking an Agricultural Adjustment Act payment from the federal government for his ranch at the same time he was ruling on the constitutionality of this act.

The record of some of these cases, detailed by Joseph Borkin in "The Corrupt Judge," induced the late Sen. Estes Kefauver of Tennessee to introduce a code for ethical conduct of the judiciary. It failed to pass. Nobody seemed much concerned about ethical conduct in those days. Sen. Joseph D. Tydings of Maryland now has revitalized the old Kefauver code and made it stronger and

with a little help from Sen. Dirksen it should now become law.

THE FORTAS AFFAIR comes at a time when the ethics of the executive branch of government are the highest in history and the ethics of Congress considerably improved. This highlights the little-known fact that President Johnson did more to improve ethics in the executive branch than perhaps any other president by requiring every top official to file a financial statement with the Civil Service Commission every three months. LBJ's action came at a time when there was need of ethical improvement.

President Truman had tried to require all cabinet members to file financial statements but his attorney general, Howard McGrath, indignantly resigned. And ethical improvement then stopped. It even retrogressed under Eisenhower. There was the initial spectacle of Nixon's \$18,000 personal expense fund in 1962 which may have helped set the tone for the Eisenhower administration. For it was followed by the forced resignations of Harold Talbot, secretary of the Air Force; Sherman Adams, assistant to Eisenhower; Peter Strobel of the General Services Administration; Richard Mack of the Federal Communications Commission; Carl O. Hansen of the Farm Home Administration, all because of conflicts of interest.

There was also the case of the home at the Aiken, S. C., golf course especially built for Eisenhower by his big business friends, the equipping and refurbishing of the Gettysburg farm by wealthy contributors and the subsidizing of all farm expenses by W. Alton Jones of Cities Service, Billy Byars and George E. Allen.

Today, however, ethical standards in the executive branch of government are high.