

Was there anything criminal or illegal about Mr. Fortas' actions as he outlined them? In these terms there was "no wrong doing" on Mr. Fortas' part. But that is the kind of judgment that gives legalisms a bad name. We can ask whether there is an impropriety about a Supreme Court Justice offering legal services to a stock manipulator, and retaining a substantial fee for ill-defined services until the pressures mounted high. And to this non-legal question we cannot accept the response of "no wrong doing."

There are distinctions and values brought into play here to which Mr. Fortas and his defenders are apparently impervious. This lack of discrimination was apparent in several earlier incidents involving Mr. Fortas. (How those buried bones do rise again!) Fred Graham of the *New York Times* recalled the incident in which Mr. Fortas, personally pleading the case of a Texas executive before the chairman of the Security Exchange Commission, asked the chairman if he did not know that the executive was a large contributor to the Democratic Party. Illegal? Unethical?

There was also the time that Mr. Fortas, after his appointment to the court, was asked whether he had advised his friend Lyndon Johnson about the war in Vietnam, on which Mr. Fortas had hawkish views. No, replied Mr. Fortas, he simply gave President Johnson the benefit of a logical mind, analyzing the various factors and indicating available courses of action. It should be unnecessary to say that no such analysis can be value free, since the very selection of information and the suggested priorities of attention are inseparable from a set of values. The idea that, except in the crudest sense, facts can be separated from values in such major issues as the Vietnam war, the A.B.M., the Pentagon budget, foreign aid — that idea is profoundly naive and dangerous.

The case of Mr. Fortas is not recalled here in order further to pillory him. It is recalled because the milieu in which he lived and worked made it possible for him to engage in the activities he did without a sense of impropriety or wrongdoing. It is the milieu in which many of his friends, allies and critics continue to work. Mr. Fortas is an outstanding example of the kind of moral insensitivity that can develop only because he is an outstanding man. Were the standards the country has applied to him applied to other figures in Washington, who knows what heads would fall?

A disturbing footnote to *l'affaire Fortas*. How was the information about Mr. Fortas gained? At a time when governmental agencies are becoming

vast repositories of information about all citizens, can any public figure be immune from the calculated leak? Possibly even that is not a frightening question — until one considers the possibility of the calculated leak coming from sources of great power and partisan interest. J.F.

TRANQUILITY RECOLLECTED IN EMOTION

How swiftly, in commencement addresses, the clichés have changed. On short notice we could probably reconstruct a good example of at least a mediocre address from days gone by.

For example: "Dear Graduates. Having completed that course of studies — and you here have *stayed* the course — that allows you to enter not only a society but an honored tradition of learning and civility, you are prepared to enter a world that will test rigorously you and values you take with you. Those of us who have been your counsellors, your teachers and, sometimes, your friends hope that we have had some share in developing high ideals and standards which will stand that test. The life of the university has often been scorned as an ivory tower, as an enclosure apart from the noise and strife of the greater world outside. As President of X College I accept that description — with pride. I don't mean that the time you have spent here has been free from struggle and strife. No intellectual endeavor can be wholly so. But it is well that there should be in the life of every scholar, every student a period where he can devote himself with little distraction to the life of the mind. And we hope we have provided that in the years that you have been here, and that you will in the years of your maturity, the years of attainment, recall these years with pleasure."

Well, that is the tranquillity of yesteryear. Today students have the power to shake universities, topple presidents, challenge accepted scholarly ideals and restructure curricula. But how many students have, to paraphrase Yeats, put on wisdom with their power? It seems fitting, in a month of commencement exercises, to devote this issue to that question.