

The Campaign Against Douglas

The finding of a House Judiciary subcommittee that no convincing basis exists for the impeachment of Associate Justice William O. Douglas should bring to an end this sorry episode in the relationship of the Nixon Administration, the House of Representatives and the Supreme Court.

An aggressive though covert effort to drive Justice Douglas off the bench began with a press campaign nourished by "leaks" from a White House aide. Then, a year ago, Representative Gerald Ford, the House Republican leader, urged Justice Douglas's impeachment. Last April, Vice President Agnew announced his belief that Justice Douglas should be investigated. On April 15, Representative Ford returned to the attack. In response to this and other pressure, a House Judiciary subcommittee—working with two counsel, one appointed by the Democrats and one by the Republicans—has spent months exhaustively following up every lead. No evidence has been found of any corruption, wrongdoing or conflict of interest.

The accusations against Justice Douglas have two main themes. One is his service for several years as the paid president of the Parvin Foundation, which gives fellowships to foreign students. The foundation was established by a businessman who has had investments in Las Vegas and associations with figures in the gambling fraternity. But Representative Ford's innuendos notwithstanding, no link has been found between the Parvin Foundation's innocent activities and Mr. Parvin's business activities. The other theme of the attack is that Justice Douglas has permitted his book publisher to reprint excerpts of his writings in magazines like the *Evergreen Review*, which also publish erotic stories and illustrations.

Justice Douglas has a free-swinging style which does not always commend itself to us or to many other people. He has always asserted his view that judges should not dwell in ivory towers and that when he became a judge he did not forfeit his right as a citizen to speak out on conservation, foreign affairs and other nonjudicial issues. This is a tenable view of the judge's role, although it is much more difficult to sustain than the self-denying, self-limiting role which most judges prefer to adopt. Granting his conception of his role, Justice Douglas still made a serious error of judgment in accepting a salary for any outside activity. Furthermore, he could have been more discreet in deciding where to permit his writings to appear.

The central issue in this affair, however, does not lie in the realm of prudence or discretion. The issue is whether an ugly, persistent effort to intimidate Justice Douglas can be permitted to continue. He is under reactionary fire because he is an extreme libertarian and a radical. Those are rare attributes in a Justice of the Supreme Court and are certain to invite attack. It is not necessary to agree with all of Justice Douglas's opinions to recognize that when the history of his more than thirty years on the bench is written, he will be regarded as a judge of constructive and forceful influence on the judicial issues of his time.

There is no need for further investigations or for public hearings. It is time for President Nixon and Representative Ford to call a halt to this squalid campaign, which threatens the integrity and the independence of the Supreme Court.