



By James A. Parcell—The Washington Post

Douglas and his wife, Cathy, meet reporters at their home after he retired.

WXPost NOV 13 1975

Champion of Free Speech

Douglas' Imprint on Laws Is Deep

By James E. Clayton
Washington Post Staff Writer

William O. Douglas is one of those rare persons who has done it all. He served longer on the Supreme Court than any other justice in American history and stamped his personal imprint deeply on large parts of the nation's jurisprudence.

That is what he will be remembered for, but that is only a part of Justice Douglas. This remarkable man once ran a major regulatory agency and, at least once, came close to being President.

He has traveled all over the world and lived constantly in a swirl of controversy. He has written more books and articles than many professional authors. And he has been, at the same time, a part of the sophisticated world of the East Coast and of the mountains of the West.

It was those mountains—the Cascades of Washington state—that shaped this justice's views and life. He has been just as robust as they in his belief in free speech and

the other guarantees contained in the Bill of Rights. And just as rugged and free-spirited as they are in his personal life.

It is hard to recall now that when Douglas came to Washington—in 1936 to serve on the Securities and Exchange Commission—the constitutional issues facing the country involved the power of the federal government to govern.

But it was in that area that Douglas made his first major contributions to American law. He believed, unlike many of his predecessors on the court, that the Constitution granted power to Congress to run the place. He put that belief into action on the SEC, thrusting it deeply into supervision of the money markets, and later on the court, where he voted consistently to uphold government regulation of business and industry. He was the champion of the small firm or investor, much like the justice he succeeded, Louis D. Brandeis.

But, like Brandeis, Douglas

soon became best known as an ardent champion of free speech. He and the late Hugo L. Black paired up regularly in the 1950s with dissents that paralleled those of the first great team of civil libertarians on the court—Brandeis and Oliver Wendell Holmes.

Again and again, Douglas spoke sharply against the abuses of government loyalty and security programs, libel and obscenity laws, government snooping, unfair criminal procedures, and any kind of enforced conformity in speech or thought.

In some of these areas, particularly in the early years, his views were indistinguishable from those of Black. But as time went on, their symmetry began to crumble, with Douglas arguing for positions ever more liberal.

Unlike his colleagues on the bench, Douglas carried the fight for the things in which he believed off the bench and into the public arena. He spoke out

See CAREER, A10, Col. 1

CAREER, From A1

about national issues and world affairs with seemingly little regard for his position as a justice. Eventually, it was these outside activities that triggered the effort to impeach him in 1970.

In his early years on the bench, the influence of Douglas on the rest of the New Deal court was substantial. He knew more about the kinds of issues then before the justices—regulation of business, corporate finance, and so on—than most of his colleagues and he frequently spoke for the majority.

Later, his influence appeared to wane and, in UU recent years, he has been found more and more frequently in a dissenting posture unshared by any other member of the court.

Some of his critics have attributed this not so much to the positions he espoused as to the way in which he reached them. He had less reluctance than most justices to break out of the court's beaten paths and to use his opinions as vehicles for comment on public, as well as legal, issues.

For some of these critics, the 36 1/2 years Justice Douglas spent on the court have been years of unfulfilled expectations. They regard him as a man of monumental ability and energy who never devoted all he could have to the court's work.

To other court observers, Douglas has been a fitting heir to the seat of Brandeis. They regard his unorthodoxy in legal matters and his constant grappling with problems not before him as reflective of his own search for a real sense of what the law ought to be.

They see this search in his willingness, in recent years, to have the court consider more questions than it actually has about the military draft and the war in Vietnam and in his eagerness to have the court decide matters not so much in terms of the language of the Bill of Rights but in the spirit of those amendments.

Perhaps Douglas' greatest contribution to the court has been as a spur against complacency. He was ready, first, to expand the legal rights of the poor. He was always a foe of racial discrimination. And almost any case attracted his interest if it contained what he saw to be a social or political injustice.

Much of this arose, no doubt, from the experiences Douglas had in his youth. Born in Minnesota, he grew up in Yakima, Wash., in a poor family. An early case of polio led him into mountain-climbing to regain his strength and to work in the wheat fields where he encountered much of the radical rhetoric of the Wobblies of that era.

To this was later added undergraduate schooling at Whitman College in Walla Walla, Wash., the gloss of a Columbia law school

education and two years of work in a Wall Street law firm. Then came teaching at Columbia and Yale before he came to Washington as one of the bright young men of the New Deal.

These two differing views of the world came together in Douglas' eagerness both to spot injustice and to find a way to cure it. Justice Black once remarked, after working with Douglas for years, that the first cry Douglas uttered when he was born "must have been a protest against something he saw at a glance was wrong or unjust."

Those protests—so often spoken so passionately—undoubtedly reduced his influence on the court and may have decreased the prestige of the court itself with some Americans.

But they have also carved out for him in the court's history an unusual niche and made him a hero of those whose rights he sought to protect—the poor, the powerless and the heretics.