

WILLIAM ORVILLE DOUGLAS

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TWENTY-FIVE years ago, in March 1939, this streamer headline splashed across a page of *The Washington Post*: "So There Are No More Horatio Alger Heroes! What About Young William O. Douglas?"¹ It told of President Roosevelt's appointing as an Associate Justice of the Supreme Court the youngest man to hold that office since James Madison appointed Joseph Story in 1811. Underneath appeared a photograph of the 40-year old new Justice taken the day before in the office of the Chairman of the Securities and Exchange Commission — his office. His face was barely visible behind the bottoms of his shoes, which looked as if they housed two of the biggest feet in the world — at least since Goliath. This was an unusual photograph. But Bill Douglas is an unusual person. I suspect that he must have come into this world with a rush and that his first cry must have been a protest against something he saw at a glance was wrong or unjust. He grew up as a country boy, acquiring an unusually strong love for nature, which seems to have grown stronger through the years. His was an unusual record of accomplishment as student all the way from country school through college. As a Professor of Law at Yale, he, along with other daring thinkers like Walton Hamilton, Wesley Sturges, Charles Clark, and Thurman Arnold, blazed new trails, challenging other minds to follow. Both before and during his service as Chairman of the Securities and Exchange Commission, he played a key role in the conception, formulation, and passage of statutes and rules designed to make the way unusually difficult for transgressors of ethical standards in the market place.

Bill Douglas the Justice, during the twenty-five years I have sat with him on the Court, has made an extraordinary record of service. While not given to statistics, I venture the suggestion that during that time no member of the Court has borne a larger share of the Court's opinion writing than he. After all these years working with him, many of them spent side by side on the Bench, I still marvel at his ability to accomplish so much so quickly and so well. I can recall no single instance in which he was unable to discuss and analyze at our weekly conference the crucial points in all the cases argued before us that week. He is simply an unbelievably prodigious and constant worker. He wastes no minutes.

Even while the Justice has borne his full share of the Court's workload, those restless feet of his have carried him into some of the most remote and

1. *The Washington Post*, March 26, 1939, § 3, p. 3, cols. 5-8.

inaccessible spots in the world. There he has gathered specimens of flowers, plants, and fauna to enrich the knowledge of mankind. Not content with exploring nature's physical treasures, his restless, curious, inquiring mind has probed into the scholarship of the past and the present, the better to enable him to understand the forces that move and shape societies and governments.

I shall not discuss his cases or his attitudes on questions before the Court. In this situation I find myself following a habit of years and using his language to tell why I take this position. In writing a foreword to the February 1956 *Journal*, dedicated to me, he said:

And when one has been in such frequent agreement with a Brother as I have with Justice Black, it is impossible to write about him without seeming to write about one's self, or being so neutral as to appear to condemn by faint praise, or being so vague as to be stilted, or seeming to take advantage of the Brother's anniversary to perpetuate one's own favorite dissents.²

More often than not, Bill and I have agreed on issues in cases coming before the Court, both in majority and in dissent. At the same time, we have disagreed in the past on highly important cases — not always in muted tones. In the very nature of things, we will do so again, from time to time, so long as we stay on the Court together. For this reason perhaps I may be pardoned for making one general observation about Bill's work: my own guess is that his high place among all the Justices of the Court, past and present, is already secure and that each future year he serves his country in that position will add to his renown as a champion of justice and freedom.

2. 65 YALE L.J. 449 (1956).