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Harlan Fiske Stone Centennial Lecture: The Meaning of Due Process

Speaker: WILLIAM O. DOUGLAS
Associate Justice
Supreme Court of the United States

Introduction: MICHAEL I. SOVERN
Dean of the Faculty of Law
Columbia University School of Law

DEAN SOVERN: Harlan Fiske Stone, fourth dean of the Faculty of Law of Columbia University and twelfth Chief Justice of the United States, was a giant—at Columbia and on the Court. In the course of our year-long hundredth birthday party for him, we have sought to convey a sense of his stature in many ways. Today, you may see a glimpse of Stone the teacher in Douglas his student.

In the fall of 1922, a promising but impecunious applicant rode the rails east to enroll in the Columbia Law School. Seventeen years later, Stone knew the special joy of welcoming that student as a colleague on the Supreme Court of the United States.

Ten days from now, on April 17th, William O. Douglas will have served as an Associate Justice of the Supreme Court of the United States for thirty-four years. But far more important than his remarkable length of service has been the extraordinary intellectual vigor with which he has brought the law to bear on practically every problem the nation has faced in more than a generation.

He is the author of an impressive array of constitutional law opinions forcefully defending the liberty of the individual against the power of government. His forthright protections of the freedoms of speech and thought and his elaboration of an evolving constitutional guarantee of personal privacy are examples of his enormous impact on our fundamental law. Many other examples could be cited. But beyond his impact on substantive doctrine, Mr. Justice Douglas has been the supreme expositor from the bench of the philosophy of legal realism, the view, in the words of Roscoe Pound, that law "is a means toward an end, [which] must be judged by the results it achieves . . . not by the beauty of its logical processes or the strictness with which its rules proceed from the dogmas it takes for its foundation." For Mr. Justice Douglas, it has never been enough simply to discover the law and leave it where he found it. He has projected our law into the future,



insisting, with Holmes, that the law must be shaped to bear witness to the moral development of society. Avoiding the recondite and esoteric, he seeks instead a simple and uncompromising focus on basic values. As a judge, Mr. Justice Douglas has joined the courage and bluntness of the frontier with the intellectual power of the academy. The result has been an original and profound vision of the role of law in society.

The penetrating legal intellect of William O. Douglas was apparent in the early years of his career. An outstanding member of our Class of '25, he taught at Columbia until 1928, then became a member of the Yale faculty from 1928 to 1936. He served his country with distinction in a number of federal posts, including the chairmanship of the Securities and Exchange Commission. In 1939, President Roosevelt nominated, and the Senate confirmed, William O. Douglas as an Associate Justice of the Supreme Court.

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[Nov. 1975]

Dear Mr. Justice:

It was with much sorrow that I learned today from your letter that personal circumstances have made it inadvisable for you to attempt to carry on the duties required of a Member of the Supreme Court of the United States. You have written me that you will be retiring at the close of this day from regular active service as an Associate Justice. Thus this day marks the completion of your very distinguished service on the Court beginning on April 17, 1939, a period which has established a record for longevity of service.



THE WHITE HOUSE
WASHINGTON

November 12, 1975

Dear Mr. Justice Douglas,

I have read your letter of this date with profound personal sympathy for the sad circumstances under which you deem it inadvisable to attempt to continue participating in the work of the Supreme Court of the United States. I want you to know first of all of my warm admiration for your valiant effort to carry on the duties of your high office, despite your recent illness, with the same courage and independent will that have characterized your long service to your country.

In response to your decision to retire at the close of this day from regular active service as an Associate Justice, may I express on behalf of all our countrymen this nation's great gratitude for your more than 36 years as a Member of the Supreme Court. Your distinguished years of service are unequalled in all the history of the Court. Your contributions to the law both as scholar and jurist and your service under President Franklin D. Roosevelt as member and chairman of the Securities and Exchange Commission constitute a lifetime of dedicated public service matched by few Americans.

It is my sincere hope that your health will soon be restored so that you can enjoy your well-deserved retirement and relax among the natural beauties you love and have helped to preserve. Future generations of citizens will continue to benefit from your firm devotion to the fundamental rights of individual freedom and privacy under the Constitution

Please accept my respect and personal good wishes.

Sincerely,

The Honorable William O. Douglas
Supreme Court of the United States



Wednesday 11/12/75

2:00 The Chief Justice's secretary called to say the citation Kenneth Rippley spoke to you about where the Chief Justice paid tribute from the bench at the occasion when he acceded the longevity of any justice in history ----- 414 U.S. Reports IX --very first page.



TRIBUTE TO MR. JUSTICE DOUGLAS

SUPREME COURT OF THE UNITED STATES

MONDAY, NOVEMBER 5, 1973

Present: MR. CHIEF JUSTICE BURGER, MR. JUSTICE DOUGLAS, MR. JUSTICE BRENNAN, MR. JUSTICE STEWART, MR. JUSTICE WHITE, MR. JUSTICE MARSHALL, MR. JUSTICE BLACKMUN, MR. JUSTICE POWELL, and MR. JUSTICE REHNQUIST.

THE CHIEF JUSTICE said:

Before we hear the first argument this morning, we would like to take note for the permanent journal and records of the Court of an important event in the history of the Court.

One week ago today, on October 29, MR. JUSTICE DOUGLAS established a new longevity record for service on the Supreme Court of the United States; thirty-four years, one hundred and ninety-six days, as of that day.

His tenure as a Justice of this Court now exceeds that of Mr. Justice Stephen Field, who was appointed by President Lincoln, took his oath of office in 1863, on May 20, and remained on the Court until December 1, 1897.

I know I speak for all the members of the Court, and for the retired and former members of the Court, when we take this occasion to wish our Brother Douglas continued good health and long life and to record our congratulations on the new record which he has established and will proceed to break every day when he arrives at the Court in the morning.



414 U. S. Reports X

November 5, 1973

The Chief Justice said:

"Before we hear the first argument this morning we would like to take note for the permanent journal and records of the court of an important event in the history of the court.

"One week ago today on October 29 Mr. Justice Douglas established a new longevity for service on the Supreme Court of the United States; 34 years, 196 days, as of that date.

"His tenure as a Justice of this court now exceeds that of Mr. Justice Stephen Field who was appointed by President Lincoln, took his oath of office in 1863 on May 20 and remained on the court until December 1, 1897.

"I know I speak for all the members of the court, and for the retired and former members of the court, when we take this occasion to wish our brother Douglas continued good health and long life and to record our congratulations on the new record which he has established and will proceed to break every day when he arrives at the court in the morning."



Dear Mr. Justice:

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~~at~~ mark^d the completion of ~~an active service~~ your ^{very} ~~most~~ distinguished service on the Court beginning on April 17, 1939, ~~a ^{long} period which has~~ ~~is~~ ~~established~~ ~~a record of service on~~ ~~the Court~~ ~~for~~ ~~longevity~~ ~~of~~ ~~service on the Supreme Court.~~



EXECUTIVE

THE WHITE HOUSE
WASHINGTON

FG 51/A

November 12, 1975

Dear Mr. Justice Douglas,

I have read your letter of this date with profound personal sympathy for the sad circumstances under which you deem it inadvisable to attempt to continue participating in the work of the Supreme Court of the United States. I want you to know first of all of my warm admiration for your valiant effort to carry on the duties of your high office, despite your recent illness, with the same courage and independent will that have characterized your long service to your country.

In response to your decision to retire at the close of this day from regular active service as an Associate Justice, may I express on behalf of all our countrymen this nation's great gratitude for your more than 36 years as a Member of the Supreme Court. Your distinguished years of service are unequalled in all the history of the Court. Your contributions to the law both as scholar and jurist and your service under President Franklin D. Roosevelt as member and chairman of the Securities and Exchange Commission constitute a lifetime of dedicated public service matched by few Americans.

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Please accept my respect and personal good wishes.

Sincerely,

Gerald R. Ford



The Honorable William O. Douglas
Supreme Court of the United States

Orig. delivered at 5:00 p.m. - 11/12/75 - to Kenneth Ripple, office of the Chief Justice, per Eva Daugherty, Mr. Buckner's office

Mr. Buckner advised on November 12, 1975. Orig. was delivered. Mr. Hart

Supreme Court of the United States
Washington, D. C. 20543CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

November 12, 1975

Dear Mr. President:

It was my hope, when I returned to Washington in September, that I would be able to continue to participate in the work of the Supreme Court.

I have learned, however, after these last two months, that it would be inadvisable for me to attempt to carry on the duties required of a member of the Court. I have been bothered with incessant and demanding pain which depletes my energy to the extent that I have been unable to shoulder my full share of the burden.

Therefore, pursuant to the provisions of Title 28, U. S. Code, Section 371(b), I hereby retire at the close of this day from regular active service as an Associate Justice of the Supreme Court of the United States.

During the hours of oral argument last week pain made it necessary for me to leave the Bench several times. I have had to leave several times this week also. I shall continue to seek relief from this unabated pain but there is no bright prospect in view.

Chief Justice Burger and my other colleagues on the Bench have extended to me every courtesy and generous consideration. I have appreciated their thoughtfulness and I shall miss them sorely, but I know this is the right decision.

Respectfully yours,



William O. Douglas

The Honorable Gerald R. Ford
President of the United States
The White House
Washington, D. C.



THE PRESIDENT HAS SEEN...

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

November 12, 1975

Dear Mr. President:

Justice Douglas has asked me to have the enclosed letter handed to you personally. I have called Mr. Buchen to be ready to accept this letter and enclosure which Mr. Kenneth Ripple will hand to him.

Justice Douglas asks, and I took the liberty of assuring him you would agree, that your office advise me or him as to the time of the announcement.

For my part I would also like to know this day and hour so I can have an appropriate statement ready.

Cordially and respectfully,

Walter E. Burger

The President
The White House
Washington



November 14, 1975

Dear Mr. Chief Justice:

Respectfully referred for the files
of the Supreme Court of the United States.

Robert D. Linder
Chief Executive Clerk

Transmitting a copy of the following:

William O. Douglas, Associate Justice of the U.S. Supreme Court, advised the President on 11/12/75 of his intention to "retire at the close of this day from regular active service as an Associate Justice of the Supreme Court of the United States"; acknowledged 11/12/75.

(Sent to Hon. Warren E. Burger, Chief Justice, Supreme Court of the U.S.)

djm



Supreme Court

Wednesday 11/12/75

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