In Memoriam: Justice William O. Douglas

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The death of Mr. Justice Douglas was the occasion for many tributes, evaluations and reminiscenses. No one as influential, as effective and as strongminded as Mr. Justice Douglas could avoid having his detractors. But no one denied he had philosophies of life and of political policy and that he lived these philosophies ardently, ever impatient with those who faltered or failed. No one in our recent public life was a more devoted environmentalist than he was. And he believed in enjoying, or more correctly seeking to live with, the environment at every opportunity. He was no armchair ecologist but enjoyed nature to the full.

It always has seemed to me that Mr. Justice Douglas combined ideas of personal freedom and equality of peoples in a way unusual for our time. He was the last in many ways of the frontiersmen. A person deserved respect for what he or she did, not for family connection or wealth. Oppression that in any way kept a person from achieving was an anathema, and reprehensible, even depraved. Those who were in one way or another kept from developing their natural abilities had no better champion. One does not often think of a frontiersman as having a highly sophisticated social conscience but this unusual combination always made Mr. Justice Douglas so interesting to me.

The frontiersman in Mr. Justice Douglas never died and he wrote the most creative and perceptive, if not always prevailing, Supreme Court opinions in the environmental area. It was not nostalgia but an appreciation of the values of an earlier time that made him sensitive to the environment in a particular way. Even one of his most controversial opinions, Village of Belle Terre v. Boraas, responded to an ideal environment over what were strong contrary equal protection arguments. But more obviously, Mr. Justice Douglas saw nature in its wild state, even if enjoyable by
relatively few, as worthy of protection from development that might permit many more persons to come close to a nature that had been shaped, and he might have said distorted, for recreation. Primitive nature was a part of his western heritage and he saw environmental issues primarily on this plane, worried about the impact on people but also reveling in its natural strength and beauty.

Freedom and equality are generally treated as contradictory philosophical principles. Mr. Justice Douglas had the ability to combine convincingly a tremendous devotion to equality of persons and a great belief in the freedom of humankind. He had strong populist views in many ways but his sense of the equality of man was much more sophisticated and deeply held than is found in the generality of populist thought. In turn, his sense of freedom was not the freedom to exploit others or to exploit the land, but a freedom similar to that of an eagle to enjoy wild and sometimes dangerous nature in its primitive or little-used state. This is the freedom of exultation, not passivity, of the wild, not civilization. And this freedom built upon a society in which each person has the opportunity to develop all his or her abilities and talents.

One may disagree with Douglas' opinions, temperament and viewpoint but no one can deny the grandeur of his vision. It was on the same colossal scale as the man, larger than life.

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