

THE ENVIRONMENTAL JUSTICE: WILLIAM O. DOUGLAS AND AMERICAN CONSERVATION

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INTRODUCTION: A PUBLIC INTELLECTUAL FOR CONSERVATION

- U.S. Supreme Court Justice William O. Douglas served a role for the American conservation movement that no one else could—that of a public intellectual. Douglas used his prominence to reach a broad American public and to educate them about the threat to America’s natural heritage by commercial development, industrial pollution, and an unresponsive political system. He believed the public needed to be aware of the issues and involve themselves in solving the problems. Reaching the public and empowering them with knowledge, combined with political reforms that allowed the public legal avenues to challenge environmental management, became hallmarks of Douglas’s conservation approach. His leadership on environmental matters was unique to the movement, because his standing gave him audiences that others like Howard Zahniser or David Brower could not reach. As a public intellectual for conservation, Douglas represented the movement to the American populace and symbolized the rising importance of this cause to American democracy.

CHAPTER ONE: ROOTS AND REPUTATION

- Douglas understood himself as rooted firmly in the western outdoors. In the Cascade Mountains as a boy, he developed a passion for nature from hiking, in part as a way to achieve mastery over personal challenges and tragedies, including childhood illnesses and the death of his father. By climbing dangerous peaks and pushing the limits of personal endurance, Douglas believed he achieved independence and found freedom in the hills. Since unspoiled nature represented a key element in his own development, Douglas recognized the importance of preserving nature for others. As he quickly he ascended to the nation’s highest court, Douglas remained close to the West. He crafted a public persona based on western imagery and his early autobiographical writing was a selective and creative reconstruction of his life story. In emphasizing the lessons that nature had taught him, Douglas cultivated credibility and moral authority for speaking on behalf of the environment. By the early 1950s, Douglas and the rugged outdoors were indelibly linked in the public mind, and he drew repeatedly on that link for the next two decades.

CHAPTER TWO: ROADS TO PROTEST

- With two public protests in the 1950s against proposed roads, Douglas emerged as an important figurehead for conservation and lent a struggling wilderness movement

considerable legitimacy. Along the Chesapeake and Ohio Canal in suburban Washington, DC and the Pacific Beach in Washington State's Olympic National Park, Douglas led groups of hikers who favored trails over roads, hiking over driving, and the unique values of wilderness over mass recreation. In the process, the justice made his outdoor pastime a political act and became a leading public spokesperson for wilderness. Journalists took note of a Supreme Court justice in his 50s leading strenuous hikes with many followers. These hikes demonstrated the political context of conservation in the 1950s: without legal safeguards, conservationists needed to generate publicity sufficient to force federal agencies to pay attention. Conservationists could not have asked for a better public symbol as a sitting—or hiking—justice. Through his public commitment, Douglas helped transform conservation.

CHAPTER THREE: TOWARD A WILDERNESS BILL OF RIGHTS

- While the hikes created necessary public drama, conservationists also responded to and contributed to political changes as the 1960s dawned. For Douglas, he spent the early 1960s writing and speaking to large audiences, educating them about nature, ecology, and politics. Drawing on the deep roots of an American environmental tradition, his early books largely celebrated spectacular landscapes and shared them with the public along with ecological lessons. From traveling around the continent, Douglas learned valuable lessons about threats to special places. As the decade continued, though, his writing and speaking became more politicized. Influenced by shifting priorities of liberalism toward a greater emphasis on rights, Douglas pushed in similar directions. He proposed procedural guarantees to open decision-making processes to the public and legislative changes to make environmental protection permanent rather than simply the will of administrators. The shift toward a “wilderness bill of rights,” derived from Douglas's experience traveling the nation's wildlands and the social ferment of the time, represented the movement's evolution and reflected its success (e.g., passing the Wilderness Act). Now, Douglas desired to move toward a stronger and more institutionalized environmental ethic.

CHAPTER FOUR: COMMITTEES OF CORRESPONDENCE

- Drawing on the reasoning he had articulated in the early 1960s, Douglas called for Committees of Correspondence to coordinate local and national conservationists to protect various places. Throughout the 1960s and early 1970s, Douglas worked in myriad ways—publicly and privately—to support such committees. Three of his most extended examples were his efforts to protect Cougar Lakes in the Cascade Mountains as designated wilderness, to acquire and protect various Texas locales from private development in public reserves, and to ensure the larger Potomac Basin balanced urban development with recreational activities. In each case, Douglas functioned pragmatically and flexibly while navigating complex political, historical, and legal contexts. These case studies in activism showed the contours of environmental politics and the central role Douglas played in bridging the local and the national. Unique contexts shaped Douglas's specific strategies, but in all places he used his public image and power to raise awareness of threats. Armed with his environmental identity, protest experience, and political philosophy, Douglas brought substantial influence to each scenario, trying always to engage the public and ensure their interests were heard and protected.

CHAPTER FIVE: THE ENVIRONMENTAL JUSTICE

- Somewhat paradoxically, the role that gave Douglas public standing was the most difficult position from which to engage the public on conservation measures, because environmental law was barely emerging when Douglas retired in 1975. Schooled in legal realism, Douglas saw law as serving important social and policy functions. Because of this perspective, his opinions often relied on frank discussions of his values, especially when the environment was at stake. Douglas wrote a number of opinions (generally dissenting) in which he articulated how law and nature intersected, or how he envisioned them intertwining. As personal and political documents, if not legal precedents, Douglas's environmental opinions reveal much about his own thinking, which became increasingly radical. By 1972 in *Sierra Club v. Morton*, he argued that natural entities ought to possess standing to sue in federal courts. This is arguably the most radical position a Supreme Court justice has ever delivered on behalf of nature's rights. These opinions, too, demonstrated what Douglas had long believed—that his role, even as a cloistered justice, was to engage the public, educate them about the law's function, and inspire them to think broadly about social changes.

CONCLUSIONS: TRANSITIONS AND LEGACIES

- As Douglas's public career wound down, he became evermore outspoken and radical. He began to pay greater attention to the relationship between social and environmental ills, reflecting the evolution of the movement. Although he retained his faith in the public, Douglas discovered that his ideas might outpace the public; the public largely was unready for granting legal rights to nature or a wilderness bill of rights. When Douglas retired in 1975 and then died in 1980, the public reflected on his legacy, and they recognized his environmental contributions on par with his legal achievements. He had achieved much. We can be grateful.