majority will perhaps cause left-liberal public interest groups to alter their rhetoric and argue for a separation between morality and politics. If so, considering the large number of highly educated people who sustain the public interest movement, one suspects that Wills or some other savant will then remind us of the Platonic truth that virtue is knowledge.

Thus in his effort to repair the deficiency in our political theory Garry Wills has turned to history. His lucubrations have produced a new nation founded on a communal rather than a liberal individualistic spirit, and a political system based on public virtue rather than interest-group conflict. In an age when journalists try to make history by injecting themselves into events and shaping policy, we should perhaps be grateful for Wills' modesty and restraint. He is after all merely trying to rewrite history—a time-honored occupation of rulers, reformers, and revolutionaries of all political persuasions. Nevertheless, as Wills perceives it, history remains relevant. It is important therefore to recognize his historical researches for what they are: an extension of the campaign to discredit modern liberalism that has preoccupied him from his youthful experience on the right to his present role as learned apologist for the new egalitarianism. □

THE COURT YEARS 1939-1975
THE AUTOBIOGRAPHY OF WILLIAM O. DOUGLAS
William O. Douglas / Random House / $16.95

Maurice J. Holland

However unfavorable one's feelings about the late Justice William O. Douglas, this volume can only be regarded as unworthy of its subject and a dereliction of editorial responsibilities on the part of its publisher. Despite occasional passages of insight and, even, here and there, fleeting eloquence inspired by the author's love of the American wilderness, this book is in the main a disjointed, meandering pastiche of self-congratulatory reminiscences, populist animadversions against what is with tedious regularity termed "the Establishment," sententious pronouncements on good government platitudinously uttered, all interspersed with extended and unaccountable excerpts from the author's own judicial opinions or those of other liberal stalwarts on the Bench.

*Maurice J. Holland teaches law at Indiana University.*

Douglas obviously intended this work to serve as an elucidation of the ideals and commitments which shaped his lengthy and controversial career. Since that career was so important for the recent judicial and political history of the United States, this dismal book is to be lamented even by those who did not count themselves among the Justice's admirers. A highly successful and prolific author in his prime, Douglas was once capable of much better than this product of his final, pathetically enfeebled years. In fact, the first volume of his autobiography, *Go East, Young Man: The Early Years,* published in 1974 with the expert, though unacknowledged, editorial assistance of Dagmar Hamilton, was incomparably better, even though it is only with the sequel that Douglas's period of service on the Supreme Court is reached.

William O. Douglas, of course, was a liberal's liberal—regarded by his admirers as an unflinching defender of the Bill of Rights, uncompromising champion of liberty, courageous spokesman for the downtrodden, despised, and dispossessed, who used his position on the Supreme Court to inspire the nation with renewed devotion to the highest ideals of its founders. Thus his old friend, Clark Clifford, at Douglas's memorial service: "Because of Bill Douglas, each one of us is freer, safer and stonger." To Clifford and many like-minded contemporaries, Douglas was true heir to "Freeborn John" Lilburne, cantankerous and obstreperous to be sure, and not always well mannered, but withal one of freedom's stoutest heroes, with perhaps just a touch of Natty Bumppo thrown in to give a flavor of rugged outdoorsiness.

But to his detractors, who were by no means to be found only in such predictable quarters as American Legion posts, chambers of commerce, or watch and ward societies, Douglas was quite another matter. To Justice Felix Frankfurter, a fellow New Dealer and Roosevelt appointee, Douglas was "malignant," "one of the two genuinely evil men I have known." Where his admirers saw idealism and generosity of spirit, Frankfurter and many others discerned shameless opportunism, a wilful, result-oriented, and unprincipled approach to his work, a tendency to play to various constituencies thought favorable to his political ambitions, and an arrogant wrecklessness in the conduct of his personal affairs. During his last decade on the Court, as his opinions grew ever more baldly assertive, idiosyncratic, and heedless of both precedent and fundamental constitutional doctrine, Douglas became something of an embarrassment even to many partisans of the judicial activism he epitomized. He became pathetically enamored of the youth culture and fawning in his praise of the most raucous dissent, embracing in his enthusiasm the whole litany of anti-American attitudes of the New Left. He even came perilously close to an implicit endorsement of violence, as in his assertion that Richard Nixon was the George III of his time. Douglas's opinions from this latter period were prone to extensive quotations from such jurisprudential sources as *The Greening of America,* and to reaching such conclusions as that trees should be accorded standing to sue and that the Bill of Rights should be understood to afford special protection to "the freedom to walk, stroll, or loaf." He frequently expressed regret that his colleagues on the Court refused to join him in ending the Vietnam War by judicial fiat.

*The Court Years* dissappoints most, however, because it contributes little to the understanding of its elusive and exasperating subject. Much of the book is written as if the reader were scarcely conversant with the great events of the last fifty years—we are subjected to rambling discourses on the coming of the New Deal, World War II, the Cold War, all described in terms which can best be characterized as boilerplate liberalism. Its motifs—"the People versus the Interests," the greedy plutocrat versus the high-minded servant of the public interest enlisted under the banner of the New Deal, the swaggering exploiter versus the upright and honest common man—are unrelenting and unrelieved even by the quaint grandiloquence of the speeches of William Jennings Bryan.

If Douglas possessed any capacity for self-examination or introspection, it is not in evidence in this volume. Douglas's perceptions betray not the

slightest element of doubt, no sense of complexity or ambiguity, or of the serious costs entailed in his single-minded pursuits. For him, to paraphrase Clausewitz, adjudication was a continuation of politics by other means. His political philosophy, particularly when applied to civil disobedience and the role of government in sustaining public morality, was, as Sidney Hook and Walter Berns among others have demonstrated, so jejune as to merit a failing grade in any moderately demanding civics course. In his later years he exalted militant and widespread civil disobedience, holding it essential to the health of democracy, never troubling to consider, much less reconcile, the tension between such tactics and the premises of majority rule. Efforts to foster patriotism in the schools he equated with Nazi authoritarianism. Attempts by government at any level to enforce some modicum of wholesomeness or reticence in public display were, in Douglas's mind, nothing more than officially sponsored hypocrisy and arrant philistinism. What rankles is not that these views are indefensible, but that their proponent deems them so self-evidently true, that the thought that they might require buttressing does not occur to him.

The irony of these pages is that a man who obviously enjoyed thinking of himself as a colorful and inveterate iconoclast consistently comes across as a predictable, almost smug, purveyor of the safest orthodoxies of his time. Throughout Douglas affects the unconvincing posture of one constantly besieged and vilified for his fearless espousal of unpopular views. Douglas was, of course, subjected to four impeachment efforts, and was attacked from many quarters more often and more vehemently than any other Supreme Court justice in recent times, yet his ability to *épater les bourgeois* was quite transparently more a source of satisfaction than of pain to him: One of his keenest disappointments was his failure to be included on Nixon's "enemies lists." In any case, it is difficult to take seriously the notion that Douglas, the second youngest man ever appointed to the Supreme Court, the holder of an endowed chair at Yale Law School when he was thirty, the best-selling author, the handsomely paid star of the college lecture circuit, the friend of four Presidents and of scores of others of America's most powerful men, was somehow a prophet without honor in his own country.

When a book is scantily endowed with thoughtfulness and ideas, it may still find its salvation by providing a few bits of new and interesting information. There is, however, very little of this either. Part of the difficulty, as his sympathetic recent biographer,* James F. Simon, has conceded, is that Douglas was notoriously unreliable and self-servingly selective in recounting the past. His description of the last effort to impeach him, in 1970, conveniently omits mention of the most damaging information in the case developed against him by Gerald Ford and others in the House and dismisses this attempt as nothing more than malicious harassment— "the Establishment" and the endlessly malevolent Nixon up to their old tricks.

Yet for one event in Douglas's life we should be thankful—his failure to be nominated for Vice President on the Democratic ticket in 1944. According to Douglas, Roosevelt, having decided to rid himself of Henry Wallace, narrowed his choice to Douglas and Truman in that order of preference. But because Robert Hannegan, national chairman of the Democratic party, reversed their order in FDR's letter to the convention delegates, it appeared that Roosevelt's first choice was in fact Truman. Typically, Douglas embellishes this story by recounting how Hannegan later admitted to his face that he had pulled off this gambit. To credit this account requires one to believe that Roosevelt, perhaps the deftest political operative in American history, on the verge of victory in World War II, with his party at his feet, allowed his wishes about his likely successor to be set at naught by a party functionary's alteration of a letter, an alteration which could not have been concealed from the writer whose wishes it purported to express. If this story is true, then Hannegan is entitled to a place among the unsung heroes of American history. If it is not true (as it almost certainly is not), then Douglas has indulged his character-

**Independent Journey: The Life of William O. Douglas*, Harper & Row, *$16.95*.

istic penchant for rewriting history.

Unfortunately, an overly inventive memory is not the only personality flaw betrayed in his autobiography: There is also displayed the disagreeable habit of almost casually traducing those who acted in ways of which he disapproved. Nothing in this volume quite matches the "neo-fascist image" attributed to Henry Cabot Lodge II in *Go East, Young Man*. But about Paul Freund of Harvard, generally acknowledged as one of the most profound and humane constitutional scholars of his time, Douglas writes: "he had a gimmick—the ostensible profundity of a scholar. Actually he was the dispenser of warmed-over theories of law that seemingly were objective but actually were tools to keep the 'proper' people in control of society." The source of this hostility to Freund, which Douglas extended with equal cordiality to Alexander Bickel, is well known—it sufficed that both were protégés of Frankfurter.

Still more execrable is Douglas's treatment of Thurgood Marshall, who as Second Circuit Justice vacated a Douglas order which had in effect enjoined the Secretary of Defense from obeying the commands of the President to conduct bombing operations in Cambodia. By overriding an earlier ruling in the same case by Justice Marshall (who had primary responsibility for the Second Circuit where the case had originated), Douglas violated the norms of orderly judicial procedure. Douglas is not content simply to criticize Marshall, but goes on to cast vile aspersions at and impute dishonorable motives to him. Douglas accuses Marshall of acting "lawlessly" and expresses his suspicion that "some Nixon men put pressure on Marshall to cut corners. Sad to say, he did so and thus emulated the 'law and order' man during the Watergate period." If challenged to clarify what he meant by "pressure," would Douglas slyly retreat from the charge of flagrant impropriety implied by the word "pressure," avowing that all he really had in mind was a formal argument in chambers by Justice Department lawyers? If pressed on whether he really thought Henry Cabot Lodge, of all people, was a "neo-fascist," would Douglas daintily point out that he merely observed that Lodge had a "neo-fascist image"?

This volume has strengthened my inclination to regard Douglas as a "brilliant fool" and something of a scoundrel. Admittedly one of the most gifted lawyers and administrators of his generation, he lacked the requisite humanity, wisdom, judgment, and inner poise for sound work as a Supreme Court justice. Despite frequent disavowals of presidential ambitions, he left the distinct impression that his youthful appointment to the Court had led him to conceive of himself as FDR's eventual successor. As it gradually became clear that the path to high political office was closed off, a certain embitterment and rancor took hold of him and hastened the erratic conduct of his later years. Spectacular success and widespread adulation achieved too easily at too youthful an age are apt to fan inordinate ambition which, if balked by fortune or circumstance in later life, is likely to prove more and more corrosive as it is consistently frustrated. Thus the unbending forthrightness and unstinting friendship for the downtrodden perceived by Douglas's friends to be the animus of his politics were called upon to fill the void of his self-conceived failure, and in that void they became a rigid iconoclasm in the attempt for the stature of a personage, and an unending resentment of the successful. □

## ROLL CALL: ONE YEAR IN THE UNITED STATES SENATE

**Senator William S. Cohen / Simon and Schuster / $14.95**

**Fred Barnes**

The old saw in Washington has it that, Boy, if only reporters could write what they really know about senators and congressmen, you'd get hellacious stories about sexual hijinks and booze binges and heavy traffic in brown envelopes under the table.

Don't believe it. For an evening of unrelieved ennui, try eavesdropping on the barroom conversation of a half-dozen Capitol Hill reporters. You will hear few tales of Rita Jenrette and Paula Parkinson, even fewer of sinister lobbyists bending Congress to their will. But voiced in rich detail will be all you didn't need to know about some senator's off-the-record assessment of the Japanese auto import issue or a House member's snide comment about a colleague.

Which leads to William Cohen's diary of his rookie year, 1979, in the Senate. This is not a great book about the American system of government. Tocqueville can relax; *Democracy in America* hasn't been supplanted. Nor is it a luminous piece of literature. Cohen sometimes overwrites and his metaphors are occasionally jarring. But *Roll Call* has the saving grace of unsparing accuracy, and that is no small feat. Senators are rarely so publicly honest about the splendid tedium of their work.

If you are eager, then, to discover how that elitist crowd in Congress spends its time, turn to this book. It captures what are the salient but seldom cited characteristics of congressional life: the parade of small-bore legislative events, the mindless frenzy, the superficiality, the relentless pettiness, all of it made palatable by the chance of fame and a brush or two with something momentous. By the end, Cohen has destroyed that old myth about reporters brimming with racy stories. They can't know what isn't so, though they might be willing to report it anyway.

Cohen is a 40-year-old Republican from Maine. He is an interesting fellow aside from the peculiarity of having written a book. His father, a baker in Bangor, is Jewish, his mother an Irish Protestant. He is a Unitarian. He is also a poet, with a published volume of poems to his credit. Robert Frost he isn't, but some of his poems are graceful and moving. He was mayor of Bangor before winning the House seat from northern Maine in 1972.

Fame came quickly in Washington. He served on the House Judiciary Committee when it took up articles of impeachment against Richard M. Nixon in 1974. Cohen argued his position ably and voted to impeach. In 1978, he ran for the Senate against a truly lackluster incumbent, William Hathaway. Cohen played up his own support for the Kemp-Roth tax cut and criticized Hathaway as a liberal of the knee-jerk school. He ousted Hathaway by nearly a 2-to-1 margin.

Cohen hastily learned that while a senator's job is more exalted than a House member's, the work is the same. The issues involved, like saving Loring Air Force Base in northern Maine, are usually non-seismic. And there is always the obligation to appear before every group that might feel snubbed otherwise.

One April day, Cohen writes, "I flew from Boston to Augusta, Maine, where I addressed the Maine White House Conference on Libraries. I stayed on the platform to listen to the speaker who followed me—an articulate librarian from New Hampshire. I had not anticipated that he would talk for more than 30 minutes and started to squirm as each minute beyond the half-hour margin I had allowed myself ticked off. I arrived nearly 40 minutes late for a press conference that I had scheduled at the state capitol."

Seven months later, Cohen and Senator Gary Hart, the Colorado Democrat, appeared in St. Louis to discuss "Issues of the 80s" before a gathering of public relations men. "At 7 a.m., we were extracted from our rooms by several aggressive young executives so that we could have breakfast with the executive committee responsible for putting on the program," Cohen writes. "At 7:30 a.m., before coffee or juice had been served, the president of the organization, an eager, hard-charging public relations expert, turned to me and said, 'Tell me all the positive things we can look forward to in the 1980s.'"

Cohen rolled his eyes at Hart. "Actually I didn't come here to tell you about all the positive things you can look forward to," he said. "I came to talk about the mess that we're in and hopefully suggest some ways to get out of it." But that wasn't good enough for the P.R. executive. "You mean you can't tell me one good thing that America has to look forward to?"

Senators don't get much respect from lobbyists, either, according to Cohen. "There is a brazenness that seems to have taken hold of the [lobbying] process, an arrogance and disdain that makes a pathetic mockery of the legislative process," he writes. But lobbyists are not the corrupting influence that Jack Anderson and Common Cause portray. Rather, they are an annoyance and an embarrassment.

"The halls of Congress have become so crowded with professional lobbyists that congressmen often are forced to push their way through the throng to reach the chamber to vote," he continues. Cohen eluded them by regularly taking the side stairs of the Capitol. "I don't know if any votes are ever changed by the pleas and importunings that reverberate and ricochet around our hallowed halls . . . But it does give the impression that an auction is going on for the highest bid and that the merits of the legislation and the welfare of the public are thrown out in the process."

Cohen's reasons for writing this book are not obvious. It may be that he just likes to write. *Roll Call* is clearly not the sort of boring manifesto that politicians often have ghostwritten for them prior to running for president. Nor is it ego-inflating. Cohen does not have a pre-Copernican view of American politics. The system does not revolve around him. Two months after coming to the Senate, he climbed on the subway to the Capitol, only to be told, "Hey, don't sit in the front." Why not? he asked. "Because a senator is coming, that's why." □

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*Fred Barnes is Washington correspondent for the* Baltimore Sun.