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What shall we make of Justice Douglas? Even history, usually readier with a snap judgment, seems bound in the contradictions of this great man's life. To some of us, he is the epic legal hero of the age in which the republic came to terms with its moral responsibilities—a mover for civil rights, for peace, for nature, but, above all, a fearless and self-guided man who respected the legal rights of presidents less than those of trees. For others, he is the paradigm of Lord Action's famous dictum—brutal to his subordinates, faithless to our heritage and, above all, a judge who cynically manipulated the constitution to achieve political goals. There is of course some common ground for critic and admirer; no one denies Douglas his legal genius or his personal force.

Simon's 1980 biography will unmistakably be the starting point for anyone who tries to get behind the stereotypes that are all we usually see of Douglas. Simon has done more to recreate a vivid picture of young Douglas than does Douglas' own autobiography. From the autobiography we take the sharply etched picture of an idealistic youth called to higher challenges; from Simon's account we get the same image but in a chiaroscuro of stubbornness and ambition. Simon does not, however, attempt a purely psychological portrayal—for which I, at least, as one who does not look forward to Fear and Loathing in the Beds of the Supreme Court, am grateful.

The emphasis of this book is on the phases of the public and professional career. Douglas as professor is presented with respect for his scholarly accomplishments; Simon does not, however, leave that period without showing some of the pettiness of academic politics and the self-serving nature of the autobiography's treatment of the period. Douglas describes himself as a heroic young Turk, who resigned from Columbia as a matter of principle; the facts, according to Simon, show a factional spat at Columbia coin-
ciding with a good chance to go to Yale. It was eight years later that the Douglas legend began, when the brilliant young professor from the rods of a freight train became Chairman of the Securities Exchange Commission. Simon gives a generally sympathetic impression of the accomplishments during this period but he doesn't let us overlook the incessant flattery of the great, the near-constant posing as crusader, and the careful mechinations for a seat on the Supreme Court—a preferment at which Douglas could then express surprise as for an unsolicited, and hence more deserved, reward. Immediately following the resignation of Brandeis, Douglas wrote to James Farley, the head of the Democratic party: “Dear Jim, The only additional adornment which my office needs is an autographed photograph of you. Then it will be perfect. . . .” The same day saw identical letters to “Dear Frank” Murphy, the Attorney General, and to “Dear Sam” Rayburn, Speaker of the House. Next month, Roosevelt named Douglas to the court and Douglas said he was “dumbfounded.” Simon shows the pettiness but he always balances the real accomplishment. Douglas was a brilliant scholar and he did drive the SEC to significant accomplishments.

Still, the usual reader is interested in the biography of a Supreme Court Justice, not that of a corporations professor or a securities bureaucrat. So is Simon. He ties together many important sources to illuminate the working of the Court from 1939 and 1975. It is impossible in a review of reasonable length to summarize the information Simon gathers. Still, just one episode, the Rosenberg case, is worth more than a half-dozen ordinary books about the Supreme Court. For reasons I doubt I shall ever understand, the daily press seems constantly in search of searing scandal on the Supreme Court but usually overlooks it when it appears so, for instance, the recent rediscovery of a close financial and political relationship between Brandeis and Frankfurter was front-page news. Yet Simon’s presentation of the facts behind the Rosenberg’s last failure in the Supreme Court is far more shocking. Douglas’ dramatic last-minute interference with the execution may look like a public relations gesture when measured against the opportunities he had earlier to bring about an actual decision on the merits in the Supreme Court. Even so, Justice Jackson’s subsequent secret strategy sessions with the prosecution seems to be an abdication of the great principles so easily and often linked with Jackson. Maybe one day we will have a biography of Jackson as good as this one of Douglas. If so, we will be helped to learn how Bob Jackson’s respect for fairness could have been so completely consumed by his
loathing of Bill Douglas.

In short, this is a worthwhile book. Read it. But don’t expect it to answer the question at the beginning of this review.