ESL to the NEWS

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JUSTICE DOUGLAS

Justice William Douglas was appointed to the U.S. Supreme Court at the age of 41 because President Franklin Roosevelt wanted to replace what were called the "nine old men" with youthful liberal justices. Now, 36 years later, Douglas has become the oldest Justice on the Supreme Court, having served longer than anyone else in history.

There are many reasons why his retirement, voluntary or involuntary, is in order. Justice Douglas has suffered a stroke, is partially paralyzed, and has been unable to participate in the work of the Court all year. The Court has a big backlog of cases, and those decisions on which the Court is divided four-to-four are held up, awaiting the vote of Douglas, or his replacement.

There was a substantial case against Justice Douglas even before his present infirmities overtook him. On April 15, 1970, when Douglas was still healthy, Congressman Gerald Ford called him "unfit" and said, "I would vote to impeabh him right now."

Ford presented Congress with a 21-page bill of particulars including the fact that Douglas accepted large sums of money from Las Vegas gamblers, and was paid a fee for writing an article for a pornographer and then voted in favor of that pornographer when his appeal from an obscenity conviction reached the Supreme Court.

Under the law, Douglas should have disqualified himself from participating in the decision, Ford said. He said that to take

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money from a man with a case pending before the Supreme Court was a "gross impropriety."

Continuing, Ford added:· "Writing signed articles for notori ous publications of a convicted pornographer is bad enough. Taking money for them is worse. Declining to disqualify oneself in this case is inexcusable."

Two of Douglas' own associates have also been sharply criti cal. Justice Felix Frankfurter described some of Douglas' opinions as those "of a judge who has political ambitions, and is not think ing about the court or his court job."

Justic. Frank Murphy called Douglas' written opinion upholding the curfew and other World War II restrictions imposed upon Ameri cans of Japanese descent only, "the most shocking thing that has ever been written by a member of this court !1 and 11a regular soap box speech."

Others have pointed out Douglas' prejudice• against religion as shown by his opinions which questioned the constitutionality of chaplains in the armed services, the words "In God We Trust" on our money, and the deductibility from federal income tax of contributions to churches.

Justice Douglas should gracefully acknowledge that his re tirement is in the public interest and, if he fails to act, Chief Justice Warren Burger should request him to do so.

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