

# Douglas Sits and Waits As Court Throng Stands

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WASHINGTON, Oct. 6— After the other eight Justices swept through the parted velvet curtains today, Justice William O. Douglas was left seated all by himself behind the raised bench, confronted by an entire courtroom that was standing and staring in his direction.

The courtroom was standing because that is what Supreme Court protocol requires until the last Justice has gone. The Court's senior member was seated because he was unable to leave without assistance.

Before the disabling stroke he suffered last New Year's Eve, he was always first off the bench after Chief Justice Warren E. Burger. Now he sat and stared mildly back at the courtroom through pale blue eyes, seeming neither embarrassed nor flustered by the exposure of his frailty, which in subtler ways had made him a center of interest from the moment the term began this morning.

The scene was enacted at both the morning and afternoon sessions, and each time the awkwardness lasted only a moment. Then two hefty Court attendants stepped quietly through the parted curtains and, settling Justice Douglas in his high-backed chair, wheeled the chair backward, through the curtains and down a ramp. Still facing the courtroom, the Justice's pink visage slowly vanished behind the bench.

## Speculation on Presence

It was the start of the 37th term since Justice Douglas, who will be 77 years old next week, was named to the Court. No other Supreme Court Justice ever served that long. Until recently, whether he would make it back for the new term was regarded as an open question. There were many who felt that, given his age and condition, he should not even try.

He sat through four hours of legal arguments today, but he was the only member of the Court not to question the contending lawyers. In the first hour, during arguments over procedures

within the Interior Department in implementing the Federal Coal Mine Health and Safety Act, his chin sank to his chest and he sat immobile for more than 10 minutes. The arguments were less than electric and as the minutes ticked by, it seemed increasingly likely that Justice Douglas was dozing. Finally, a court messenger knelt beside him with a slip of paper. The Justice did not respond immediately. Then he turned his head, slowly surveying the courtroom before looking at the message.

For the rest of the morning he sat upright, occasionally sipping from a glass of water or leafing through papers with his right hand. The other Justices, who were swiveling and rocking in their chairs, did not look his way. At one point, however, he turned and seemed to catch a glance from Justice Potter Stewart, who was seated next to him on his right. Justice Stewart blew his nose and looked away.

## A Nod To Burger

Moments later, Chief Justice Burger, who had been chatting with Justice William J. Brennan Jr. on his left, leaned to the other side and made a comment to Justice Douglas. The slight nod Justice Burger got in response was Justice Douglas's first communication with another member of the Court during the morning session.

Not long afterward, a messenger gave him another note. Justice Douglas appeared to write something on it and pass it to the messenger, who then delivered a slip of paper to Justice Byron R. White, who had been scowling over an argument. Justice White looked at the paper and his face broke into a warm smile. Minutes later, he was still smiling.

After the lunch recess, Justice Douglas was more animated, and there were indications that he found the cases being argued more compelling.