

DOUGLAS PRESENT AS COURT RETURNS

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Joins Eight Other Justices
for Working Parley Amid
Doubts on His Health
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WASHINGTON, Sept. 29—

Supreme Court Justice William O. Douglas joined the Court's eight other Justices today for the first working conference of the 1975-1976 Court term, apparently determined to continue on the bench despite possible health problems caused by his stroke last winter.

It was his first appearance at the Court since last April 21, when he left his hospital bed to hear arguments on the constitutionality of the death penalty.

Mr. Douglas's health and its impact on the Supreme Court are among the most critical questions confronting the Court as it begins its new term. The other Justices as well as the legal profession in general have been concerned for months about Mr. Douglas's ability to continue.

The common attitude has been that decisions as to possible action, such as suggesting the Justice's resignation, should be postponed until the start of this year's term—perhaps on the theory, as the new president of the American Bar Association, Lawrence E. Walsh, suggested at the A.B.A. meeting this summer, that Mr. Douglas should be allowed at least the summer to recover.

Public Session Next Week

The Justices' meeting today was private; the Court's first public courtroom session, the official start of the term, is not until next Monday. It was thus impossible to determine whether Mr. Douglas's appearance today has resolved any of the questions about his health.

There had been some speculation as to whether he would appear today. He arrived at the courthouse at 9:30, driven in the Court's blue Dodge station wagon by a Court Aide;

he was sitting in the front passenger seat, wearing a hat. As the vehicle turned into the driveway toward the Court's underground garage, two policemen raised their hands in greeting, and Mr. Douglas appeared to respond.

Later in the morning, the Court clerk's office distributed copies of a five-page opinion in a case that Mr. Douglas had heard—and decided from the bench—earlier in September in Yakima, Wash.

The case was a request by two men—including C. Arnholt Smith, a friend of former President Richard M. Nixon—for a stay, pending appeal, of a Federal District Court that Federal grand jury records involving the two be turned to the San Diego County prosecutor.

Mr. Douglas granted the request for a stay, and the County has since filed an "application" with the Supreme Court asking that the stay be vacated.

Decision Seen Unnecessary

Since he had already decided the matter, and since it is now before the Court, a written decision further amplifying his reasons did not appear necessary.

To some observers it seemed that Mr. Douglas might have written the opinion at least in part to demonstrate that he was still fully able to perform his judicial duties.

Discussion in legal circles of the problems that Mr. Douglas's health could cause have focused on two areas. The first is the possible difficulties of the Court's functioning with only eight members. However, the Court has functioned before with a less than complete bench.