

Burger Tries to Cut Loads of U.S. Courts

By John P. MacKenzie
Washington Post Staff Writer

Chief Justice Warren E. Burger is making significant progress in his drive to cut down the work of the federal courts and reduce their role in the nation's governmental scheme.

On the bench and off, in Supreme Court decisions, in speeches and by lobbying, Burger has pressed his arguments that his court and the lower federal courts are both overworked and hyperactive.

Vigorous and active at 67, Burger this weekend called for still more action to relieve the federal judiciary's workload. He also opened a new front—a campaign to raise the pay of federal judges in a recession year.

Actual caseload reduction may continue to elude Burger as the population and its legal problems continue to expand, but in recent months:

- The high court has done all it could, in the cases before it, to discourage consumer and environmental private class actions and make them more costly.

News Analysis

- The justices have cut back sharply on the activism of lower courts in lawsuits by prison inmates protesting the conditions of their confinement, while the U.S. Bureau of Prisons, stirred by Burger, has adopted procedures aimed at settling prisoner complaints out of court.

- New Supreme Court conservatism has chilled the desire of civil rights, civil liberties and public interest groups to take their most troublesome cases to the high court.

- Decisions, such as one last year that gave states at least a 10 per cent margin of error in complying with the "one man, one vote" reapportionment rule, have signaled the futility of bringing many kinds of lawsuits that used to be filed routinely.

- The court has stretched laws governing its own jurisdiction in a way that gives the justices more discretion to ignore large num-



CHIEF JUSTICE BURGER
urges judges' pay rise

judges between the 11 circuit courts of appeals and the Supreme Court.

In a "year-end statement," Burger continued to praise "thoughtful studies" that have "illuminated the problems of the appellate courts." Their purpose, he said, is "to add judicial capacity to provide more final authoritative decisions in our national legal system" when the number of cases decided by the high court is constant at about 150 a term.

Translated, the Burger statement indicated that he sympathizes with the idea of final decisions, at least in some areas of the law, being rendered in courts other than the Supreme Court. Various suggestions for a restructured judicial system are in circulation, none of them endorsed or rejected by Burger, but all of them furthering the argument that the jurists are overworked.

On judicial salaries, Burger has taken his case to President Ford. In a White House meeting last month, he said it was unfair that judges' salaries have been frozen for the past six years while federal civil servants have had several increases. He told the President, and repeated in his statement yesterday, that six judges have quit recently to return to private practice, where the compensation has kept pace—some say more than kept pace—with inflation.

The judicial salaries have been pegged to those of Cabinet members and members of Congress under an arrangement designed to keep the judges out of politics. The result has been that judges suffer equally when legislators won't raise their own pay for fear of voter reprisal. District judges now make \$40,000 a year, circuit judges \$42,000.

Burger's encouragement of new judicial institutions has caused observers to view him as a legal reformer—or empire builder—in the mold of Chief Justice William Howard Taft. His movement on judicial salaries, whether successful or not, will enhance his reputation as the champion of the working federal judge.

bers of attempts to appeal directly to Washington from federal district courts, just as two new laws will relieve the court of mandatory review of many antitrust decisions and all Interstate Commerce Commission actions.

- High court rulings in the antitrust and labor fields have chipped away at the jurisdiction of federal courts and agencies, steering more legal disputes to state courts or no courts at all.

While striving to reduce the level of litigation, Burger has encouraged proposals to increase both the number of judges and the number of tribunals handling them, including the possibility of another tier of