

Burger Urges Prison Tribunal

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By John P. MacKenzie
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Chief Justice Warren E. Burger said yesterday that Congress should consider creating a new hearing procedure for federal prisoners to relieve the courts of mounting inmate complaints.

Calling it "sheer nonsense" to involve federal judges in docket-cluttering problems of prison discipline, Burger suggested that prisoners be required to complain first to a prison administrative tribunal and then go to federal court only after exhausting hearing rights.

In his fourth annual address to the American Bar Association, Burger also recommended increased use of informal prison grievance machinery and the assignment of federal magistrates to hear evidence in some habeas corpus and civil rights suits filed by prisoners.

Burger, who is sometimes accused of favoring reduced access to the legal system in the name of judicial efficiency, told an audience of 4,000 at the Sheraton Park, "I do not suggest for one minute that federal courts deny protection. What I suggest is that we use some common sense."

The speech was part of the opening ceremonies at the ABA's 96th annual meeting, which has brought 8,000 lawyers and their families to Washington.

Burger called for consideration of another docket-clearing idea for the federal circuit courts of appeals, a rule that would eliminate the current right to appeal and require instead that litigants obtain court permission to take their cases to higher courts.

In his prepared text, but not in his oral delivery, Burger said, "I am willing to take the risk that it may be said that this is a 'proposal' I advance when I am simply advocating that the subject be studied in light of the experience the circuits have now acquired in screening appeals."

Crediting recent improvements made by judges, Burger said a federal bench, "dedicated to duty for the

first time in 12 years had disposed of more cases than were filed in the period ending June 30. "We can fairly claim that we have now arrested the increase in the backlog," he said, but have yet to cut significantly into the 126,000 undecided cases.

He said district judges, "who are working more hours than at any time in history," deserve more pay and the help of 51 more judicial posts recommended by the U.S. Judicial Conference.

Burger, who is more popular with the organized bar than most of his recent predecessors, praised the ABA warmly for supporting many of his judicial administration propos-

als. Increasingly, the ABA "is the voice of progressive development and beyond that it is the hands and feet of progress, translating ideas and ideals into action and reality."

Stressing once again his view that the Supreme Court is overloaded with work, Burger said high court cases have quadrupled and become more complicated in a quarter century.

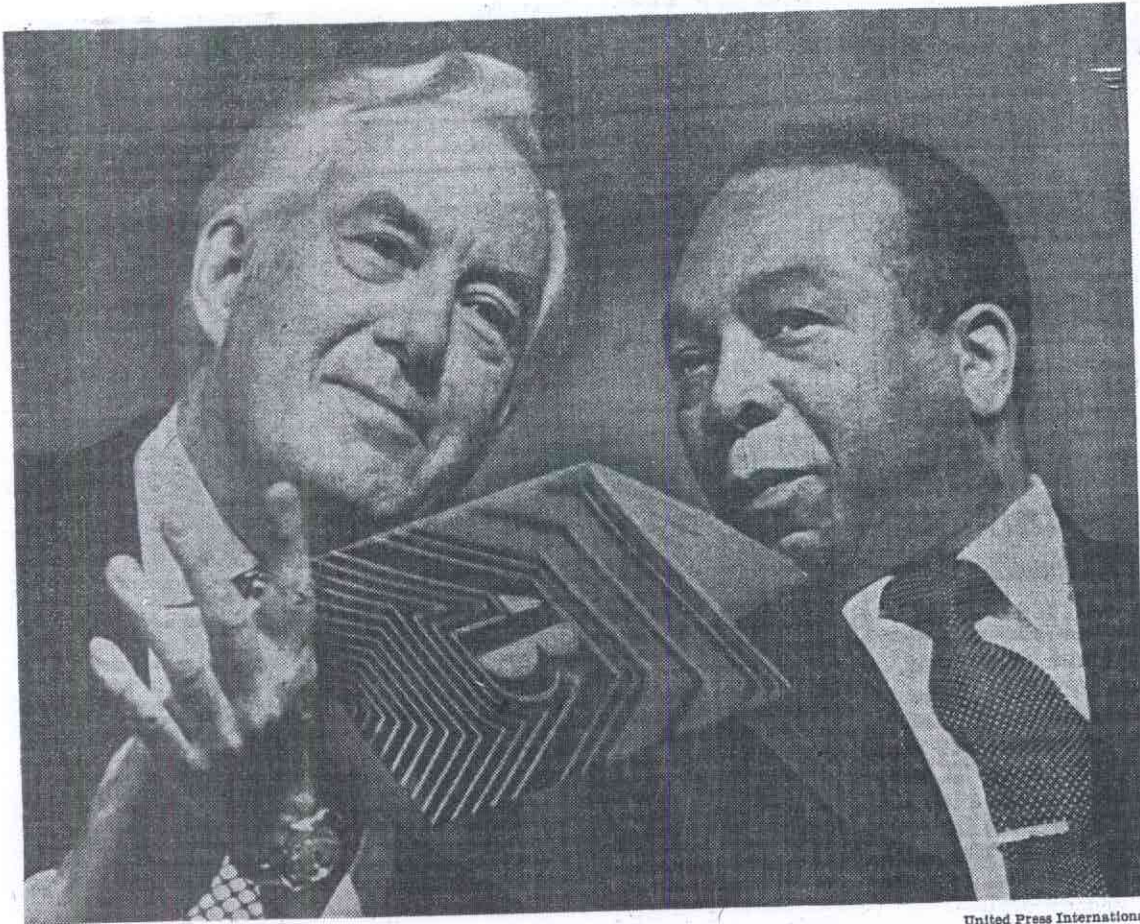
He said he is reserving judgment while ignoring "sterile and negative criticism" of a proposal to create an intermediate national court of appeals with power to prevent the Supreme Court from hearing cases deemed frivolous by the new tribunal.

System

"Few have challenged the existence of a very grave problem," said Burger. His predecessor, Earl Warren, and a few other justices have questioned the need for a new court, but many other jurists and lawyers are uncommitted.

In another speech to the convention's opening assembly, outgoing ABA president Robert W. Meserve said the bar must work to repair the damage to the legal profession and to civil liberties that has developed with the Watergate scandal.

"Watergate, with all its related events and what I call the spirit of the times in which such things can happen and result for some in so little



United Press International

Chief Justice Warren E. Burger, who called for increased use of informal prison grievance machinery in his speech before the American Bar Association yesterday, talks with Mayor Walter Washington of the District of Columbia.

sense of outrage, seems to me to be at least a threat to our liberties and to our very sense of decency," said Meserve, a Boston lawyer.

In an apparent reply to statements by incoming president Chesterfield Smith that the ABA needs drastic overhaul, Meserve told the convention, "I hope to be remembered primarily as a president who had the good sense to leave intact most of the excellent programs initiated by his predecessors."

Smith, an outspoken attorney from Lakeland, Fla., said last week he hoped to "kick out the establishment and the old timers" from top ABA positions and make more leadership posts available to more members.