

Burger Rips City Court on Naming Aide

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Chief Justice Warren E. Burger has taken the extraordinary step of interjecting himself into a controversy over who will administer Washington's new court system.

Superior Court Judge Harold H. Greene yesterday confirmed receipt of a letter from the Chief Justice last month virtually ordering him to reject a candidate backed by 30 Washington judges for the new post of court executive.

Unusual both in its sharp tone and strong attack on local court management, the letter represents an exceptional move by a Chief Justice to direct operations of a court over which he has no direct authority. Both Superior Court and the D.C. Court of Appeals are considered equivalent to state courts.

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In the letter the Chief Justice accused Greene and other judges of "resistance to change and to new ideas" by backing Joseph Burton, present court clerk, for the \$36,000-a-year post.

"It can hardly be thought that the problems of maladministration of the courts can be cured by giving a new title and higher salary to those who have been in charge in the past," he wrote.

The judges' insistence on Burton for the post, he said, was "influenced by the obvious desire to have a court executive with whom you can be comfortable rather than one who is qualified to bring to the management of the new court the qualities of admin-

istration so markedly missing in the past."

The criticism was similar to that leveled by Burger Feb. 1 when he spoke at the ceremony observing court reorganization here. At that time he called on local judges to "think in different terms" and realize that "the old ways were not good enough."

Burger has long been an advocate of professional administrators to oversee court business operations and to ride herd on such details as judges' working hours.

The congressional act setting up Washington's new court system calls for hiring an administrator recommended by the administrative office of the federal court system, headed by Rowland F.

Kirks, a close friend of the Chief Justice.

Although Kirks submitted three names to the local judges last December, the judges appointed Burton "acting court executive" and petitioned Kirks to recommend him.

The Chief Justice said this indicated that "you wanted to appoint someone of your own choice rather than comply with the statute." He said the judges had "no legal power" to name Burton on an acting basis.

Noting that court executives also have been authorized by Congress for the nation's federal courts, the Chief Justice said:

"No single thing would more surely or swiftly dis-

credit the movement to bring modern techniques of public and business administration into the courts than to promote everyone in the system one notch and hire a new stenographer or messenger at the bottom."

The Chief Justice also cited discussions with Greene "many months ago" about "the imperative need to develop new ways and not simply engage in a charade of 'musical chairs' with the same people doing the same old things under new titles.

"From the fact that some of your judges seem to join you in the ill-advised course you are now on, I can only assume you failed to communicate to them the basic idea we discussed of that, having done so, they, like you, reject change."

The letter was written Jan. 26. Shortly after receiving it, Greene sent a memorandum to the judges withdrawing Burton's name but not disclosing the existence of the letter from Burger.

Although Burger attached a postscript to his letter informing Greene that he enclosed "sufficient copies for all members of your court," Greene did not distribute the letter to all the judges.

Greene refused to comment on the letter yesterday except to say that a committee of judges will meet Wednesday to discuss the three court executive candidates recommended to them.

The judges earlier said that none was as qualified as Burton. Two, Arnold M. Maleck, 40, of Tappin, N.Y., a labor mediator; and Frank M. Hepler, 51, of Springfield, Va., a stockbroker, have no court administration experience.