

Burger Readies for Date With Destiny

By Jack Anderson

Chief Justice Warren Burger, his white mane pompadoured and pomaded, is preparing grandly for his date with destiny.

In the majestic marble halls of the Supreme Court, he will preside over the historic impasses between the courts, the Congress and an obstructionist President. For the high court has agreed to rule whether the Watergate grand jury had the authority to cite President Nixon as an "unindicted co-conspirator" and whether Special Prosecutor Leon Jaworski can subpoena some 64 additional White House tape recordings.

If the House later should impeach President Nixon, the handsome, haughty Burger will also preside over the Senate trial. Those who know him say he views his historic role with the greatest gravity. Already, he has asked a former law clerk to research impeachment precedents for him.

Burger has also sent for copies of congressional hearings on executive privilege, so he can bone up on the legal issues in the tapes case.

He is undeterred by word that Associate Justice William

Rehnquist will withdraw from the Watergate cases because of his Justice Department work on national security issues and his close association with the Watergate figures.

Burger has a similar conflict. He not only was appointed by President Nixon but has been a Nixon man for more than 20 years. During the private deliberations of the nine justices, Burger invariably champions the Nixon view of controversial cases.

He has been known to switch to the majority side, however, when it has become clear that the Nixon position wouldn't prevail. Reason: Supreme Court sources suggest that Burger doesn't want to appear in public to be a Nixon echo.

He has also had close personal ties to the two embattled law-and-order men, John N. Mitchell and Richard Kleindienst, who headed Nixon's Justice Department before they were hauled before the courts for allegedly violating the law themselves. Burger even recommended to Kleindienst a special prosecutor to handle the Watergate investigation.

Because of these associations, Burger has been urged to disqualify himself from Watergate

decisions and to hand over the impeachment gavel to the senior Associate Justice, William O. Douglas. But the Chief Justice clearly doesn't intend to miss his hour in the eye of history.

We have spoken to several of the nine justices who say the decision will be left to Burger whether to withdraw from the Watergate cases and the impeachment trial. Within the last two weeks, he has taken time out to dine al fresco in the court garden with his associates, Harry Blackmun and Lewis F. Powell Jr. But no associate justice is likely to suggest to Burger's face that he disqualify himself.

Some colleagues describe him as a conscientious, diligent, decent chief justice. Kleindienst, who told us he had approached Burger for his recommendations on a special prosecutor, praised his integrity.

Most agree that Burger doesn't take his conservative, law-and-order line from Nixon. The Chief Justice's hardshell views, they say, are his own.

He is so obsessed over the threat of violence that he drives with an armed chauffeur and uses court police as bodyguards.

If Burger isn't the most brilliant jurist to preside over the Supreme Court, he is one of the most pompous. He annexed to his personal offices the court's conference room. He installed a desk so there could be no mistaking that the lesser justices convened in his domain for their deliberations.

He also ordered a length of gold carpet rolled out for them to tread upon as they made their way through a rear hallway to take their seats behind the great mahogany Supreme Court bench.

Writer Nina Totenberg, an alert court observer, reports that Burger leaves imperious, written instructions for his messenger, directing him to "fill water pitcher" or "check ink well."

His pet peeve is the ballooning caseload of the high court. To dramatize this, he has assigned clerks and interns literally to count pages and produce useless statistics. Even the pamphlet distributed to tourists has been revised to include a highlighted item on the heavy caseload.

Under Burger, the court is becoming more bureaucratized.