

Justice Burger's Date With Destiny



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CHIEF JUSTICE Warren Burger, his white mane pompadoured and pomaded, is preparing for his date with destiny.

In the majestic marble halls of the Supreme Court, he will preside over the historic impasses between the court, 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 tapes.

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 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 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 on controversial cases.

He has also had close personal ties to the two embattled law-and-order men, John Mitchell and Richard Kleindienst, who headed Nixon's Justice Department before they were hauled before the courts for allegedly violating the law themselves.

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.

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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 Powell. 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 Mr. Nixon. The chief justice's hardshell views, they say, are his own.