

F Post 5-10-71

Arson Charge To Stand As Brown Hearings End

ELLICOTT CITY, Md. (AP) — The current round of hearings into the H. Rap Brown arson riot case is over with a Maryland judge refusing to dismiss the arson count in the indictment for 1967 racial disorders in Cambridge.

The judge refused to comment Sunday other than to say there were no more hearings scheduled.

The evidence hearings lasted two days, ending Saturday.

Meanwhile, state atty. Gen. Francis B. Burch said he was considering impeachment proceedings against local prosecutor whose statements that the arson charge was "fabricated" resulted in a two-day hearing last week in Howard County circuit court.

Judge James A. Macgill ruled Saturday night that evidence presented by William M. Kunstler, Brown's attorney, was insufficient to sustain charges that Dorchester County State's Attorney William B. Yates II had trumped up the indictment.

Richard Kinlein, the Howard County prosecutor, charged last January that Yates had admitted "fabricating" the charges to insure FBI involvement in case Brown failed to appear for trial.

Brown has been missing since March 1970, when two of his associates died in a car explosion outside Bel Air on the eve of his scheduled trial there.

Proceedings subsequently were transferred to Ellicott City, but Brown never appeared and has remained missing.

Burch, making what he said

was only his first courtroom appearance in about a year, insisted that Kinlein's remarks were "impeached by every other witness" in the circuit court.

Kinlein has disgraced the legal profession, the Howard County state's attorney's office, the state of Maryland and the United States," Burch said.

"When this is all over, I intend to take the proper steps under the Constitution of Maryland with regard to Mr. Kinlein," he added. Maryland law provides for impeachment cases to be heard by the State Senate. A two-thirds vote is required to remove a public official.

Kunstler countered by charging that Burch was attacking "the man who opened the sewer. . . a hated member of the establishment who revealed what the establishment had done.

"He had revealed the truth," Kunstler insisted.

He suggested Brown might reappear if the felony charges were dismissed but maintained he didn't know where the defendant was.

Burch questioned after the hearing said Brown would be tried on any outstanding indictments, if he was located.

"The next step is to see if he returns to the United . . ." stopping in mid-sentence, he continued "and if he returns, then he will go to trial."

Asked if he knew of a concentrated search for Brown, Burch said he did not.

He said no trial date would be

set "unless Mr. Brown is located and returned to Maryland."

Burch said new indictments had been discussed but he declined to elaborate.

Kinlein, reached at his home Sunday, said he was told by his attorney not to comment on the case pending developments.

"I will go to work tomorrow (Monday) and intend to wait and see," he said.

"I've been told not to talk about it," he said in reference to his lawyer's instructions.