

# BROWN TRIAL SHIFTED TO ELLICOTT CITY IN SURPRISE MOVE BY DYER

## Harford Judge Removes Self From Case After Charges By State's Attorney That He Had Prejudiced It By His Public Statements

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By EDNA GOLDBERG  
[Bel Air Bureau of The Sun]

Bel Air, March 18 — In a surprise move this morning, Judge Harry E. Dyer, Jr., ordered the removal of the H. Rap Brown case from his court in Bel Air to Howard County Circuit Court, where it will be heard by Judge James Macgill.

No new date has been set for the trial.

The order came swiftly on the heels of a request from William B. Yates 2d, the state's attorney for Dorchester county, who is prosecuting the case, that Judge Dyer disqualify himself from presiding at the arson and riot trial of the black militant leader.

Mr. Yates said yesterday that his request, contained in a letter to Judge Dyer, was based on what he called "highly prejudicial" statements by the circuit judge to the press and on television concerning the case. "Even if repudiated," Mr. Yates said, Judge Dyer's remarks "would cause the state to have misgivings as to your qualifications to sit on the bench during the conduct of this trial on the merits."

### Surprised At Furor

Despite his insistence later today that he had not yet received Mr. Yates's letter and that he was surprised at the furor created by his statements, Judge Dyer nevertheless handed down the order of removal at 11.16 A.M.

Following is the text of Judge Dyer's ruling:

In view of the announced concern of the state's attorney for Dorchester county over the possible unfairness of a trial in this court, added to the stated and recently argued concern

of defense counsel that the defendant could not get a fair trial in this court, this court feels that it should not hear the case. Therefore, the decision of this court on a motion filed by the defendant for a change of venue shall be reversed.

It is, therefore, this 18th day of March, 1970, ordered by the Circuit Court for Harford County that the above entitled case be removed to the Circuit Court for Howard County for trial.

(signed) Harry E. Dyer, Jr.,  
Administrative Judge.

### Had No Choice

Only last night, Judge Dyer said he would stand on his statements, repeating that the case was scheduled for trial Tuesday. But the jurist remarked today that with both the prosecutor and the defense lawyers maintaining that the case should be removed from his court, he had no choice but to transfer the trial.

In reversing his March 10 denial of a motion for removal made by William M. Kunstler, the defense lawyer, Judge Dyer acted on one of three alternatives listed in the motion. Although Mr. Kunstler asked the court to return the case to Dorchester county, or transfer it to another Maryland county, or to dismiss the indictment, Judge Dyer ultimately chose to send it to Howard county—some 35 miles southwest of Bel Air.

### Kunstler Not Satisfied

In Baltimore this afternoon Mrs. Devy Bendit—a Maryland lawyer working with Mr. Kunstler on the Brown case—released the following statement from Mr. Kunstler:

"We feel that Howard county is about the same distance from the scene of the alleged offenses as Harford county is . . . That in Howard county the black population is less than 5 per cent. No conditions have changed. We have to move our witnesses again. We don't feel a fair trial is possible anywhere in Maryland but a fairer trial can only be had in Dorchester county."

Meanwhile, Mr. Yates expressed regret that the case had not been turned over to Judge Albert P. Close, the other circuit court judge in Harford county. Stating that the removal came as a surprise to him, Mr. Yates

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added: "I like Judge Dyer per-thing to do," he said, referring to his decision to ask Judge Dyer to disqualify himself.

Nevertheless, he continued, "I am doing it for the state's interest and for Dorchester county."

Asked if the Maryland attorney general's office had played a part in the transfer of the trial to Hoard county, Robert F. Sweeney, the deputy attorney general, said he thought it would have been "improper to contact the judge and tell him what to do. . . . The first thing we had on this was when Judge Dyer called this office and said it (the transfer) was an accomplished fact."

The trial stems from civil disorders that erupted in the Dorchester county seat in July, 1967.

Earlier this week, Judge Dyer granted a second postponement in the trial that began March 9.

The first delay occurred last week when court recessed the day after the deaths of the two militants.

### Full Transcript Given Of Dyer's Remarks

*Following is a transcript of the remarks of Judge Harry E. Dyer, Jr., to a CBS reporter Monday after he announced that the H. Rap Brown trial had been postponed to March 24:*

Q. "You have no reason to believe some of these rumors that he, Brown, may have skipped the country, or he may be dead?"

A. "No, I don't believe that. There is no point in that man skipping the country to avoid this trial, because of all the problems that he might have. This has to be—from a technical and legal standpoint—one of his lesser problems, because I'm sure all counsel will admit this is a tough case for the state to prove.

"They have to convince a jury that this man in a single speech created all the problems that they say existed. That isn't easy—to prove beyond a reasonable doubt that Mr. Brown, in a single speech, did this.

"I think Mr. Brown can win this case, as any criminal defendant can win."





JUDGE JAMES MACGILL

Rap Brown trial moves to his Ellicott City courtroom

## New Judge In Brown Trial Is Known As A Gentleman

By LOUIS P. PEDDICORD

The pressures, political and otherwise, from which Bel Air's Judge Harry E. Dyer, Jr., was released yesterday when he transferred the trial of H. Rap Brown out of his jurisdiction, now are focused on a man viewed as one . . . "Who could hardly be more qualified to get this trial going."

That, at any rate, is the prevailing opinion of Judge James Macgill among lawyers and associates in Ellicott City, the site now designated for the resumption of Mr. Brown's trial on charges of arson and inciting to riot.

"You can call him a judge's judge if you'd like," said Charles E. Hogg, a local lawyer. "He is a real gentleman behind the bench, fair and extremely well qualified."

A 1934 graduate of the Johns Hopkins University, the 57-year-old jurist was awarded his law degree by the University of

Maryland Law School in 1939, and with the exception of several years during World War II, has been active in Howard county as a lawyer or judge for all of his career.

Off the bench, the judge is best known perhaps for his accomplishments as a sculptor. Although he has not often exhibited his works in the area, he can be seen at such affairs as Ellicott City's June Art Festival, lounging near some of his work.

He was appointed associate judge of Maryland's 5th Circuit Court, which covers Carroll, Anne Arundel and Howard counties, in 1954, was elected to the same post in 1956 for a 15-year term, and under the court's seniority system was named chief judge several year later.

### "A Judge's Judge"

As chief judge, he is described as "considerate almost to a fault," and noted for his "willingness to let everybody have their say."