

Brown Trial Judge Bows Out, Shifts Case to Ellicott City

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With prosecution and defense attorneys alike contending they cannot receive a fair trial in his court, Harford County Circuit Judge Harry E. Dyer Jr. yesterday disqualified himself from hearing the controversial case of H. Rap Brown.

Dyer ordered Brown's trial transferred to the Howard County circuit court of Judge James Macgill in Ellicott City, between Washington and Bal-

timore. Brown is charged with incitement to riot, arson and incitement to arson.

Dyer's action in transferring the trial is likely to give Brown's lawyers a delay in the proceeding that they have been seeking, and the state has opposed, over the past week. It also could give them additional time to find the defendant, who has been missing for more than two weeks.

No date has yet been set by Macgill for the proceedings to begin. The trial, already delayed twice, had been sched-

uled to open in Dyer's courtroom in Bel Air next Tuesday, but a delay of at least two weeks and perhaps more now is expected.

Dyer's action came just 24 hours after chief prosecutor William Yates II, furious at the judge's remark to reporters on Monday that "Mr. Brown can win this trial," formally asked him to disqualify himself and turn the case over to his junior colleague on the Harford County bench, Judge Albert P. Close.

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Rather than do that, Judge Dyer reversed an earlier ruling and granted a defense request that the trial—already removed once, from Cambridge to Bel Air—be transferred once again to another court.

"In view of the announced concern of the state's attorney (Yates) . . . (and the) concern of defense counsel that the defendant could not get a fair trial in this court, the court feels that it should not hear the case," Dyer said in an order issued yesterday. Attempts to reach him for further comment failed.

In New York, chief defense counsel William M. Kunstler said that he believes Cambridge is still "the only place in the United States where Rap can get a fair trial."

Yates, the Dorchester County state's attorney, won removal of the trial from Cambridge by arguing that to hold it there would run the risk of violence. The charges against Brown stem from fires and disorders that followed a speech he made in Cambridge's predominantly Negro

Second Ward in 1967.

Yates said yesterday that although he is "looking forward to trying the case in Howard County," he would have preferred to proceed as scheduled in Bel Air, but without Dyer.

'People . . . Are Fair'

"The people of Harford County are very fair and non-prejudiced," he said. "I'd hoped (Dyer) would have disqualified himself and let Judge Close sit on it."

In Ellicott City, the seat of Howard County, Judge Macgill could not be reached for comment. Court personnel could not say when the trial might be scheduled, but Yates said he didn't "see how it could be quicker than two weeks, at the fastest."

Kunstler originally opposed moving the trial to Bel Air because he said it would remove Brown from a black constituency he has in Cambridge.

Cambridge is about one-third Negro, Kunstler noted, but Harford County is about 90 per cent white and only a handful of Negroes—perhaps 5

per cent—live in Bel Air, the county seat.

Ellicott City

Howard County, like Harford, is at least 90 per cent white. Ellicott City, the county seat, is a quiet town on the side of a hill whose population reached 1,500 about 100 years ago and has remained constant since. It has about 250 Negroes, many of them retired people over 60.

The county's voting rolls, from which prospective jurors are drawn, show nearly 20,000 white voters and fewer than 1,200 Negroes. Although the planned community of Columbia, outside of Ellicott City, has swelled its population in the last few years, Howard County's 60,000 residents make it one of the smallest counties in the metropolitan Baltimore-Washington area.

Two Explosions

Citing an explosion that took the lives of two of Brown's associates when their car blew up in Bel Air on March 9, and a second blast a day later that ripped open the Dorchester County courthouse in Cambridge, Kunstler argued that the trial should be postponed indefinitely until "a quieter time" when an impartial jury could be more easily chose.

Dyer denied this request, saying he saw no tension in the air that would preclude a fair trial, but gave the defense until March 24 to produce Brown and appear in court.

Brown is free on \$10,000 bond.

Because of the transfer of the trial, Brown will not have to appear until Judge Macgill sets a date for the proceedings to begin. Preliminary matters are then likely to consume several days before jury selection begins and Brown's presence is actually required.

Bombings' Similarity

An FBI report on the bombing of the Cambridge courthouse, received yesterday in Annapolis by Gov. Marvin Mandel, indicated some simi-

larities with the Bel Air explosion.

The Cambridge explosion was caused by dynamite, and pieces of a Westclox key-wound clock were recovered from the rubble, the FBI said. In an earlier report to Mandel and the Maryland state police, the FBI said the Bel Air blast was a dynamite explosion, and that Westclox-type clock-spring fragments were recovered.

Mandel, noting that investigation is continuing in both cases, said yesterday that "we can't draw any conclusions. It's too early."

Explosives experts said clock mechanisms are commonly used in homemade bombs, and that their use in both blasts is no reason to connect the two.

Police have been seeking a young white woman for questioning in the Cambridge bombing, but reported no progress in this search yesterday.

Mandel made no comment yesterday on Dyer's withdrawal from the Brown case. "That's strictly in the judge's province," he said.

He said he hoped Macgill would proceed rapidly. "I hope the trial can be disposed of as speedily as possible," he said. "It's the kind of a situation where the quicker you get it over with, the better."

Meanwhile, in the Washington area, several bomb threats were received by police and government agencies. Although no bombs have been found, there has been a spate of such threats since the Cambridge and Bel Air explosions.

Yesterday, the Justice Department and the Office of Economic Opportunity received bomb threats, but neither building was evacuated while police searched the premises. Several threats were also received in the Maryland suburbs.

Envoy Back in London

Reuters

LONDON, March 18—John Denson, Britain's charge d'affaires in Peking, has arrived here by air for consultations at the British foreign office on the whole range of Britain's relations with China.