

Rap Brown Misses Start of Riot Trial

By Peter A. Jay

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BEL AIR, Md., March 9—Pretrial sparring in the case of H. Rap Brown, charged with arson and incitement to riot in Cambridge, Md., nearly three years ago, began on schedule here today, but the defendant was absent.

William M. Kunstler, chief attorney for the young black militant, said Brown was due here tonight and would be in court on Tuesday when preliminary matters are concluded and jury selection begins. That process is expected to be long and difficult.

Kunstler renewed his challenge to an Eastern Shore judge's unusual action in transferring the trial here from Cambridge over the strenuous objections of the defense. Kunstler said that action was unprecedented in Maryland.

In a shift of tactics, he requested that Harford County Circuit Court judge Harry E. Dyer Jr., who is hearing the case, ask the Maryland Court of appeals to rule before the trial begins on the legality of the removal of the trial from Dorchester County.

A "Good" Point

Kunstler's legal argument on this point was "a good one," Dyer said from the bench. The judge added that he found it "upsetting" that the motion was made today instead of earlier.

The judge said he would rule early Tuesday on this and other motions made today by Brown's lawyers.

Kunstler, a controversial figure in his own right since he served as chief counsel at the recent trial of the Chicago Seven, was restrained and cordial today toward Dyer, Dorchester County State's At-



H. RAP BROWN
... misses opening

torney William Yates II, and Assistant Maryland Attorney General John P. Garrity, trying the case for the state.

There were no reports of any disorders or disruptions today in this little town 15 miles northeast of Baltimore. Although the 90-seat courtroom in the Harford County Courthouse was packed with reporters and spectators—many of them black—crowds outside remained small. A handful of demonstrators marched, carrying picket signs, and some made speeches as police and sheriff's deputies watched.

Agnew Subpoena

Despite a court order by Dyer barring attorneys from discussing trial tactics with the press, Kunstler told reporters at the noon recess today that he would seek to subpoena Vice President Spiro T. Agnew as a witness.

Agnew was governor of Maryland in 1967, when fires and disorder broke out in Cambridge after a speech by

Brown on July 24. He subsequently said that whoever caught Brown should "lock him up and throw away the key." Brown was arrested several days later in Virginia.

Kunstler said Agnew would be subpoenaed "like any other citizen—he has material and relevant testimony." But he said that even though the Vice President "says he's for law and order, which means a legal trial," he did not expect him to honor the subpoena.

Kunstler and associate defense counsel Carl Broege argued strenuously that Harford County is not the proper place to bring the 26-year-old leader of the Student National Coordinating Committee to trial.

"Not the Place"

"Harford County is not the place to wash Dorchester County's dirty linen," Kunstler said.

The population of Cambridge is one-third Negro, he said, which would give Brown a certain constituency. Bel Air is at least 95 per cent white, and Brown's attorneys said today that local nervousness and resentment about the trial would make it impossible to pick an impartial jury.

Kunstler said he found Bel Air's apprehension "justifiable" declaring that "if I lived in Harford County I would resent the fact that another county" sent the trial here.

The change of venue was granted by Dorchester County Judge C. Burnam Mace after State's attorney Yates declared that a fair and untroubled trial could not be held in Cambridge, an Eastern Shore city with a history of racial tension.

Yates said today that if there was prejudice in Harford County about the trial, it was directed at Kunstler, not Brown.

"I'm sure they have right many attorneys who are just as competent" as Kunstler, he said, and suggested that Kunstler should remove himself from the case. The suggestion went unheeded.

In other pretrial motions, Kunstler and Broege challenged the form of the Dorchester County indictment of Brown, and asked that the state make available to them a tape recording of Brown's 40-

minute speech.

Yates and Garrity agreed to let Kunstler hear the recording privately before it is offered as evidence. "You're intelligent and reasonable men," Dyer told the lawyers. "I'm sure you can work it out."

After the noon recess, however, Dyer sharply chided Kunstler and Broege for returning to the courtroom five minutes late.

"I believe it will be the last time for such tardiness," the

judge said, remarking that it is his normal practice to fine an attorney \$1 for each minute he is late.