



By Bob Burchette—The Washington Post

William Kunstler, defense attorney for H. Rap Brown, is surrounded by newsmen in parking lot near the Howard County Courthouse in Ellicott City, where Brown faces trial for arson and inciting to riot in Cambridge, Md.

# Hearings Open, Brown Absent

By Peter A. Jay

Washington Post Staff Writer

ELLICOTT CITY, Md., April 20—Attorneys for H. Rap Brown said today that they would not bring their client into court for his much-delayed arson-riot trial even if they knew where he was.

They said it would not be safe for him to appear.

Brown, national chairman of the Student National Coordinating Committee (SNCC), has been missing for six weeks and did not come to court today for the scheduled opening of his trial—already postponed seven times and twice

moved to a new jurisdiction.

But his presence was not required, for legal pretrial arguments consumed the entire day. Brown free on \$10,000 bond, is not due in court until jury selection begins.

William M. Kunstler, chief counsel for the 26-year-old black militant, said he is prepared to seek transfer of the trial to federal court—a move he said would automatically halt proceedings at the state level.

Kunstler and his associates in the case also launched a

new assault on the legality of Brown's indictment in August 1967, by a Dorchester county grand jury on charges of incitement to riot, incitement to arson and arson.

The defense argument was sustained, at least temporarily, by a preliminary ruling by Howard County Circuit Court Judge James Macgill who said the prosecution would have to produce evidence to show the validity of the indictment. Macgill then recessed the proceedings until Tuesday morning.

If Macgill upholds the de-

fense contention that Brown was improperly indicted, there could be no further prosecution unless the matter were presented to another grand jury and another indictment returned.

The charges against Brown grew out of a speech he made in Cambridge, Md., on the night of July 24, 1967. Following the speech, fires and disorder broke out in the Negro section of the Eastern Shore city, causing about \$300,000 worth of damage.

See BROWN, B7, Col. 1

## BROWN, From B1

Over strong defense objections, Brown's trial was first moved from Cambridge in Dorchester County to Bel Air in Harford County. It was postponed after two of Brown's friends died in an automobile explosion near Bel Air last month, and later moved here to Howard County when Dorchester County prosecutor William B. Yates II declared that off-the-bench remarks by the presiding judge had prejudiced the state's case.

Kunstler had maintained that tensions surrounding the case are so great it would be unsafe for Brown to appear and stand trial.

"Even if we knew where he was, we wouldn't ask him to come here," the 50-year-old attorney said. He added that "we have a visceral feeling that he's alive." Some black activists have said they believe Brown is dead.

Kunstler and his associate, E. Carl Broege, challenged Brown's indictment because they said it was not specific and did not say whom the defendants allegedly incited to riot and to arson.

This made the indictment defective, they argued, and they asked that it be dismissed by Macgill.

Macgill was impressed enough by this argument to rule that the prosecution must show cause why the indictment should not be dismissed. Legal arguments on this point lasted most of today, and are expected to continue on Tuesday.

However, Kunstler said, if all motions before Macgill should be denied, he is prepared to take another tack to delay the proceedings further.

### 1870 Law Cited

He said he would file a petition with the Federal District Court in Baltimore contending that "to force (Brown) here would deprive him of rights available to white citizens." He cited an 1870 law that provided that all legal protections available to white citizens should also be available to blacks.

He said for Brown to appear for trial would place him "in danger and personal jeopardy which white citizens would not

have" to contend with.

Whether the petition to the federal court would stop the proceedings here, as Kunstler said it would, was unclear. Yates said he did not believe the petition could halt the trial.

### Air of Indifference

The courtroom proceedings did not draw a capacity audience today, unlike the interrupted trial last month in Bel Air. Howard County State's Attorney Richard Kinlein cited what he called "an air of indifference" in Ellicott City. He said that contradicted the defense's suggestion that Howard County is too tense to allow a fair and orderly trial.

Yates, who was on civil terms with Kunstler at earlier meetings, appeared to be in a snappish frame of mind today. At one point, while Kunstler was speaking to the judge, Yates jumped up to exclaim, "He's making a speech, like he does before college people."

Cambridge police chief Brice Kinnamon was called to the witness stand for an hour this afternoon to give evidence for the state in opposition to the defense challenge to the indictment.

Kinnamon, though he had testified otherwise before a Senate subcommittee in August, 1967, said he did not know the names of any persons whom Brown allegedly incited to riot.

# Trial Produces Few Ripples

By Stephen Neary

Washington Post Staff Writer

ELLICOTT CITY, April 20—Except for a horde of newsmen and large force of policemen busy enforcing strict security measures here today, nobody else really seemed to care much about H. Rap Brown or his trial.

"I think it's been pretty

good," commented a young waitress in a Main Street restaurant here in the Howard County capital. "It's brought a lot of business here."

"Well actually, I think that if the media would leave it alone, it would proceed in its normal, lawful fashion," said W. H. Anderson of Antique Imports, another Main Street shop.

"It sure isn't very exciting around here," one workman was overheard saying to another.

On Courthouse Hill some 110 newsmen had registered with the Howard County and Maryland state police to cover Brown's trial, which was

moved here last month from Bel Air.

Inside the 137-year-old granite courthouse, a wooden barricade blocking access to the basement bore a reminder of the two explosions that took the life of two of Brown's friends and blew out part of the Dorchester County Courthouse in Cambridge. Someone had scribbled on the barricade a facetious direction to workmen setting it up: "This side faces inside of building if still standing."

As the newsmen gathered in the rear parking lot to await the arrival of Brown's attorneys, a Maryland state police videotape camera kept them

under its watchful eye as a red, white and blue helicopter circled low overhead.

Saying that he was prepared for almost anything, Lt. Col. Thomas S. Smith, chief of Maryland state police operations, said that the about 140 state policemen in the Ellicott City area had been placed on 12-hour shifts for the duration of the court proceedings. In addition to the Howard County police force's 51 men, Smith said other troopers could be called in if needed.

Preparing for the trial over the past month police ordered courthouse employees to be bused in rather than drive their own cars, set up a press

## in Ellicott City

room in the Animal Control office just next to the courthouse, had additional telephone booths installed nearby and had at least two portable toilets, labeled "Old Faithful," set up.

In addition, Richard M. Tuohy of Jessup said police had asked him to drive his 1955 truck, called "Dick's Diner," to the courthouse to sell hot coffee, cigarettes and Polish sausage sandwiches.

The only problem was that except for the newsmen, some of whom by late afternoon were playing quick games of cards next to the Confederate Army memorial in the court-

house's front yard, and the many police officers, very few people came.

Only half-filled during the morning session, the 152-seat courtroom filled to near its capacity during the afternoon but still no long lines of spectators formed as had happened in Bel Air.