

Prosecutor Held Guilty of Contempt

By Jim Mann

Washington Post Staff Writer

ELLCOTT CITY, Md., Oct. 20—Howard County State's Attorney Richard J. Kinlein was convicted of contempt of court and fined \$350 today for his assertion last January that an arson charge against H. Rap Brown had been fabricated by another Maryland prosecutor.

A two-judge panel imposed the sentence after finding that Kinlein's comments about the arson charge "in their common meaning, inherently and on their face" tended to prejudice the state's case against Brown, which has never been tried.

No jail sentence was imposed, although under Maryland law Kinlein could have received as much as six months in jail and a \$500 fine for the conviction.

The two judges also ordered Kinlein to pay the costs of

court proceedings, which have not yet been calculated.

Kinlein's attorney, Georgetown University law professor William W. Greenhalgh, said his client plans to appeal.

Kinlein, 35, a Democrat, has been Howard County's chief prosecutor since his election in 1966. He was re-elected last year.

He also serves as vice president of the Howard County Bar Association, and would ordinarily become president of the county bar association next year.

It was not clear today whether Kinlein will suffer any other consequences as a result of the contempt conviction.

Maryland law provides that a public official convicted of a misdemeanor may be impeached by vote of the State Senate upon recommendation of the state attorney general.

After a hearing last May in which Howard County Circuit Court Judge James Macgill ruled there was no evidence that the arson charge against Brown was fabricated, Maryland Attorney General Francis B. Burch indicated he would seek impeachment proceedings against Kinlein.

But Burch later retracted that statement. He said today it is very unlikely that impeachment proceedings will be initiated, because contempt of court does not technically qualify as a misdemeanor.

See KINLEIN, B5, Col. 5

Prosecutor Found Guilty of Contempt

KINLEIN, From B1

It is also possible, but by no means certain, that disciplinary proceedings against Kinlein will be considered by the state bar association.

David E. Betts, the president-elect of the state bar association, said he could recall no Maryland case in the past 30 years in which disciplinary proceedings against a lawyer were initiated for a contempt-of-court conviction.

Kinlein, with his family sitting behind him in the courtroom, showed no emotion at the verdict and did not appear surprised. Afterwards, he refused to comment to reporters.

Brown was charged with arson, riot and incitement to riot as a result of a 1967 speech in Cambridge, Md., after which fires and disorders erupted in the black community there. Cambridge is an Eastern Shore city of about 12,000 residents, with a history of racial tension.

Just before his trial was scheduled to start in March, 1970, Brown disappeared, and was not seen publicly again until he was captured by police in New York last Saturday.

Kinlein entered the case as an assistant to Dorchester County State's Attorney William B. Yates II when the Brown case was transferred Howard County.

Last January, Kinlein said publicly that Yates had fabricated the arson charge against Brown, that Yates was an "ass," and that he (Kinlein)

would rather defend than prosecute the Brown case.

After the hearing in May at which Macgill found no evidence to support Kinlein's allegations, Macgill cited Kinlein for contempt, charging that Kinlein had violated a court order of March, 1970, barring all participants in the Brown case from making statements to the press that might prejudice the case.

The two judges who were assigned to hear the contempt case, Anne Arundel County

Circuit Court Judges Matthew S. Evans and Ridgely P. Melvin, are both members of the Fifth Judicial Circuit, of which Macgill is the chief judge.

In announcing their verdict the two judges said they felt there was an honest difference of opinion between Kinlein and Yates as to whether the arson charge against Brown was valid.

But, they said, such a difference is not unusual in a criminal case. "Sometimes charges

are hastily drawn," the judges said.

Before the sentence was imposed, Greenhalgh argued that it would be a tremendous injustice if Kinlein is convicted of contempt and it later develops that Brown is never brought to trial on the arson charge.

It is "unique in the annals of American jurisprudence" for a prosecutor to be convicted of contempt of court for prejudicing the state's own case, Greenhalgh said.