

## Brown's Defense Begins Summations

By JOHN SIBLEY

Summing up yesterday in the 10th week of the H. Rap Brown trial, the defense attorney, William M. Kunstler, laid heavy stress on the legal concepts of "reasonable doubt" and "presumption of innocence."

Brown and three co-defendants are on trial in State Supreme Court for the armed robbery of a West Side bar and its patrons on Oct. 16, 1971, and for the attempted murder of several policemen in a running gun battle that followed.

Mr. Kunstler began his four-hour summation after Justice Arnold G. Fraiman refused to allow testimony from the defense's second and final witness Dr. Robert Buckhout, a Brooklyn College associate professor of psychology.

Dr. Buckhout had been prepared to tell the jury about studies made by him and others on eyewitness identifications.

Justice Fraiman said he would cover this adequately in his own charge to the jury. As a "symbolic protest" against the judge's ruling, Mr. Kunstler and his colleagues formally refused to rest the defense's case.

They announced that they had no further witnesses, however, and Justice Fraiman directed them to begin their summations.

Mr. Kunstler promptly got to the point that had been at issue — the reliability of eyewitness identifications. He hammered hard at the testimony of the only three prosecution witnesses who had positively identified Brown as a major participant in the crime before he was ultimately shot and captured on the roof of an apartment building a block away.

He first attempted to cast doubt on the testimony of Pat-

rolman Gary Hunt, who had been seriously wounded in the abdomen during the gun fight. Patrolman Hunt had said Brown was one of two men running toward him, guns ablaze, when he was hit.

The lawyer pointed to Patrolman Hunt's own testimony that Brown had never been closer to him than 35 or 40 feet, and to other testimony that it had been a foggy night.

Mr. Kunstler then turned to the testimony of two men who had testified they saw Brown, holding a military carbine, during the holdup. The attorney noted, among other things, that neither of these

witnesses had come forth until long after the incident.

He made no effort to deny that Brown had been captured on the apartment house roof, but charged that police witnesses had concocted a phony account of the details to cover up the fact that they had "bush-wacked" and "brutalized" the defendant.

Mr. Kunstler did not repeat in his summation a version he has given to newsmen out of court. He has said that Brown — a fugitive from justice in Maryland — just happened to come upon the shoot-out, and to hide from the many police on the scene, ran to the roof.

See 19 Oct 71 et seq.