

# Evidence

ELLCOTT CITY, Md. (AP)—A county prosecutor involved in the H. Rap Brown trial last spring said Friday available evidence was insufficient to support arson charges against the black militant leader.

Richard J. Kinlein, Howard County state's attorney said the felony charge was "fabricated" by William B. Yates, state's attorney for Dorchester County, to ensure FBI involvement in the case if Brown failed to appear for trial, as happened.

Not so, countered Yates, professing complete amazement that Kinlein would bring the matter up now, over eight months after Brown became a fugitive by failing to appear when his trial began here.

"I think what Kinlein was referring to is at that point in the trial I was suspicious for the first time that Brown might not appear" for trial on riot and arson charges, Yates said Friday. "I said I was glad we had

the arson charge so the FBI could be called in to assist" in the search.

Brown, who is still missing, was charged in connection with racial disorders the summer of 1967 in Cambridge, Md., where \$240,000 worth of damage was inflicted after Brown made a fiery speech atop a car in the Negro section.

In his speech, Brown counseled "a group of rowdy individuals" that "you ought to burn down the old schoolhouse over there," Yates said, adding he has a tape recording of the speech to prove it.

About two hours later the old elementary school building was burned to the ground, sparking a night of disorders, Yates said.

Brown was charged with arson and inciting to riot, while a 16-year-old boy was sent to the Maryland Training School on delinquency charges in the case, the prosecutor added.

Kinlein, who said he brought

the matter up now because of his "conscience" and no one had asked him before, explained discussions of a ruling by Circuit Court Judge James A. MacGill led to his belief that the arson indictment was a "fabrication."

Kinlein, who emphasized that Yates never used the term fabrication, said he felt that his Eastern Shore colleague had added the arson charge (which is a felony) to insure that federal agents would be called in if Brown failed to appear for trial.

After Judge MacGill dropped a "counsel to arson" term from the indictment, prosecutors "were in agreement on almost every issue" that the remaining indictment was insufficient Kinlein said.

We advised Yates that the arson charges didn't have enough evidence to back them up, but "I don't know if we told them so in so many words," Kinlein said Friday.

## Howard Prosecutor Says

# Against Brown Insuffi

The original indictment charged Brown "with aiding, counseling or procuring the burning of the Pine Street schoolhouse." Yates said he "thought then (after McGill's action) and still think that's a good charge of arson under this statute."

Yates said he "never once reviewed the evidence with Kinlein," only with James Garrity, then the adjutant general for Maryland.

Published accounts quoted Yates as saying he held out for the arson charge to get Brown on the FBI's 10 most wanted list, where he was placed last May 10.

By jumping his \$10,000 bail last May, Brown is subject to a possible \$5,000 fine and imprisonment for not more than five years, Yates said.

Although Brown's forfeited bond has never been paid, Kinlein said Dorchester County has paid some \$3,700 in court costs

to Howard County. The remainder of the \$10,000 would go to Dorchester, if it were ever paid, Kinlein said.

Charles Hilliard, a Yates assistant who was present here last May when the case was discussed, said Friday his boss only said we're "lucky we had the felony charge" against Brown.

"I really stirred up a hornet's nest, but I have no regrets," said Kinlein, who explained normally he wouldn't comment on the actions of another state's attorney in his jurisdiction.

But, "in this instance . . . it was being tried in our court. I was alarmed that it was," Kinlein said, adding it "messed up court schedules for two months," cost heavy police overtime pay and put the courthouse "in a state of near-hysteria."

Kinlein was extremely critical of the Eastern Shore Bail Bond Service, operated by John T. Moton, which the prosecutor said was "liened so heavily that

there was no (financial) substance."

The judgment against a Cadillac and mortgaged motel owned by Moton was made in Howard County, the Montgomery County Sentinel quoted Kinlein as saying, but was not collected because "I got the impression Yates and Moton are in cahoots."

The paper quoted Yates as saying Moton, who handles about 80 per cent of the bail service in Dorchester, "is working for us and we try to keep up good relations with him."

Kinlein described William M. Kunstler, Brown's defense attorney, as "a polished grandstander," while Yates "is an incompetent grandstander," the paper said.

Yates stands for "some sort of counter-revolution, which is

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as dangerous as the revolution," the paper quoted Kinlein as saying.

The paper concluded Kinlein said the charges against Brown were the only case he had seen

in nine years which he would rather defend than prosecute. Beside the arson charge, Kinlein said the inciting to riot charge is part of the "phony indictment."