

U.S. Begins Case On Protest Leaders

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The government unveiled its Mayday conspiracy case against antiwar activists Rennie Davis and John Froines yesterday, but ran into trouble when an FBI agent, called to testify, forgot the details of his own report.

That report — a “confidential document” the contents of which the government fought against revealing — was the object of a physical tug-of-war between a lawyer from the Justice Department’s Internal Security Division and Leonard Weinglass, who had previously defended Davis, Froines and others in the Chicago Seven conspiracy trial.

U. S. Magistrate Arthur L. Burnett settled the dispute with a scissor.

After retiring to his chambers to read the report in secret, he sniped out eight brief extracts for use in the public record. The rest of the 26-page document was temporarily sealed in a safe.

With that and other (more gentle) battles out of the way, Burnett concluded a 4½-hour preliminary hearing by ruling there was “probable cause” to hold Davis and Froines for grand jury action.

That was a mere formality, however, since a federal grand jury here—led by the same three Internal Security lawyers who appeared yesterday—has already been hearing the case for a week.

An indictment on federal charges of conspiring to violate the civil rights of others during the Mayday protests here is expected soon.

But it may be delayed slightly, one of the prosecutors told a reporter, because “we don’t want to go off half-cocked the way they have other times.”

Agents Testify

Initial testimony from three FBI agents and Washington

Deputy Police Chief Owen W. Davis indicated that the government is relying upon a straight recitation of meetings attended and speeches given by Davis and Froines, as well as a simple description of events during the Mayday demonstrations.

It was not immediately clear how many other protest leaders would be brought into the conspiracy case or who they are.

Government sources said last week, however, that as many as seven or eight will eventually be named as alleged conspirators.

An FBI expert on the Mayday protests, James F. Whalen, was called to the witness stand in Burnett’s tiny, packed courtroom yesterday to “trace the history” of the demonstrations of two weeks ago.

When Whalen attempted to read from a document strategically placed on his lap under the table, Weinglass and fellow defense attorney Philip J. Hirschkop objected.

The document proved to be Whalen’s own report, previously relied upon when he swore out the complaint used to obtain a warrant for the arrest of Davis and Froines.

After Whalen’s efforts to testify from memory failed, Burnett ordered the report marked as an exhibit.

Repeatedly, the agent quoted it verbatim in answering questions from Internal Security lawyer Joseph Tafe,

who was consulting his own copy at the prosecution table.

Details of Strategy

Whalen, while acknowledging that he himself had not attended the meetings, described the details of antiwar strategy conferences over the past year. Burnett characterized some of the testimony as "hearsay three times removed," but nonetheless permitted it in evidence.

(Many of the strict rules of evidence that govern criminal trials in federal courts do not apply at preliminary hearings, which are used only to determine whether the defendants should continue to be held.

(Davis is free on \$25,000 bond and Froines on \$10,000. Burnett continued the bonds yesterday, but lifted his previous restriction on their travel outside Washington.)

When Whalen discussed an antiwar conference held last June at the Milwaukee campus of the University of Wisconsin, he said that groups ranging "from the Black Panther Party to the Communist Party" had attended, but Froines did not.

Reports Conflict

Reporters covering the Milwaukee conference noted at the time that Froines was indeed present, but—contrary to their plans to be there—the Panthers were not.

The agent also testified about a "people's peace conference" in Ann Arbor, Mich., last February, when Davis allegedly reported on a telephone conversation with Mrs. Nguyen Thi Binh, head of the

Vietcong delegation to the Paris peace talks.

Deputy Chief Davis testified about various acts of violence he said he observed here on the morning of May 3.

When pressed by defense lawyers for the names of government workers delayed getting to work that morning, he named only his wife, who works at the Department of Housing and Urban Development.

Weinglass and Hirschkop repeatedly tried, without success, to introduce discussion of the arrest procedures used during the Mayday demonstrations. Many critics have characterized those procedures as illegal.

Burnett invariably sustained objections by the Internal Security lawyers, sometimes suggesting they might want to object when they failed to do so.

At a press conference outside the U. S. Courthouse after the hearing, Davis said the new conspiracy trial was just one part of the Nixon administration's effort "to do everything it possibly can to discredit the peace movement."

He promised new militant demonstrations, contending that "the criminality of the war has reached such proportions (that) only by Americans' resisting the policies of this government can the war be brought to an end."

In another development, Yippie leader Abbie Hoffman, indicted last week for assaulting a policeman and inciting to riot during the Mayday protests, said in New York yesterday that he will appear on schedule for an arraignment before U. S. District Court Judge John Lewis Smith Jr. here on June 2.