Jesting Statements Lead to Trouble

Threats to President Bring Quick Arrests

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Albert Johnson sat in the White Tower at 14th and I Streets NW talking with his buddy, Houston Green. It was Jan. 21, the day after President Nixon's inauguration.

"We were fooling around, talking about girls and things like that," recalled Green, a parking lot attendant. Johnson, 28, a janitor at the White Tower, scanned a newspaper, looking for another job.

Green suggested that jobs might be harder to find with Nixon in the White House. He asked Johnson what he was going to do for work.

"Oh, I might get me a high-powered rifle or a bow and arrow or something like that and bump old Nixon off," Johnson replied. They laughed, Green said.

"What about Agnew? He's worse," countered Green.

"I'll invite him out in the street and run him over with my car," Johnson said. Green said they laughed again, as did several other people within earshot in the crowded restaurant.

One person didn't laugh—a woman standing in the take-out line who worked across the street as an investment company examiner for the Small Business Administration. She got her order of coffee from the White Tower and returned to her office.

Fifteen minutes later, Johnson was on the street in front of the White Tower being frisked and handcuffed by a Secret Service agent.

He was in jail seven days, lost his $1.85-an-hour White Tower job, and was intermittently unemployed for the next several months. He said employers turned him down when they learned he had been charged with uttering threats against the President.

On Aug. 6, a U.S. District Court jury acquitted Johnson of the charge after deliberating 14 minutes.

Few people realize it is a federal offense to utter threats against the President or Vice President in a private conversation. All it takes is an eavesdropper and a telephone call to the Secret Service.

The federal "threats" statute, 18 USC 871(a), says:

"Whoever knowingly and willfully deposits for conveyance in the mail . . . any letter . . . containing any threat to take the life of or to inflict bodily harm upon the President of the United States . . . *or otherwise makes any such threat* . . . shall be fined not more than $1,000 or imprisoned not more than five years or both."

The Albert Johnson incident highlights the dilemma over how to protect the President and at the same time preserve the rights and peace of citizens who in a moment of crude humor or innocent rhetoric may utter words that comprise the vocabulary of a threat but who do not intend to carry it out.

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Hundreds of persons are taken into custody each year by the Secret Service—most of them the classic "nuts" who come to the White House gates to see the President and won't leave. Generally, they are not arrested for criminal prosecution but are taken to St. Elizabeths Hospital for mental examination.

Criminal Route Taken

But there are other cases—ones lacking any immediately identifiable signs of lunacy—in which the Secret Service and local prosecutors decide to take the criminal route.

Two such cases have come to trial in the Washington area in the past 35 days. One was Albert Johnson's case in the city. The other was that of salesman and former real estate dealer Herbert Whitney Brown in Alexandria. Both men were accused of making threats in private conversations. Both were acquitted.

Their acquittals, however, came after each had undergone extensive social and financial dislocation.

Brown, a diminutive 61-year-old man, was accused of threatening to kill then President Johnson during a 1 a.m. telephone conversation last Dec. 17. The conversation was with a 36-year-old woman who described herself as a former friend and "confidante" of Brown.

After talking with Brown, she called the FBI, and at 6 a.m. on Dec. 17, two agents were at Brown's door.

Brown was jailed for seven days, then ordered by the court to St. Elizabeths Hospital where he spent another 93 days in the John Howard Pavilion for the criminally insane while doctors attempted to determine his mental condition.

The hospital reported in a letter to the court that Brown had a paranoid personality, but did not link his condition directly to the alleged crime. None of the hospital findings was used at Brown's trial.

Sales Commissions Lost

During his 100 days of incarceration, he was dunned for nonpayment on his Alexandria apartment, lost an estimated $3,100 in sales commissions with the American Advertising and Publishing Co. here, left a number of real estate deals pending and had to pay the Arlington Animal Rescue League to care for his pet poodle.

At Brown't trial in U.S. District Court in Alexandria on July 15, the key witness against him—the woman who had originally turned him in—admitted she had been undergoing psychiatric treatment periodically since 1964, was "off and on" tranquilizers and had a "great fear of violence and death."

The jury of eight men and four women quickly acquitted Brown.

Jack Warner, public affairs spokesman for the Secret Service, says every effort is usually made to verify the reliability and credibility of informers who turn in other persons for alleged threats.

Assistant U.S. Attorney C. P. Montgomery, who prosecuted the case against Brown, said he was aware of the woman's mental background but felt it was his duty to proceed with the case.

Many Threats Received

Warner stressed the Secret Service is flooded with threat-related duties and cannot afford to treat any case lightly. Secret Service records show the agency received 14,927 threat-related items in fiscal 1968, made 338 arrests and were involved in 302 convictions or civil commitments to mental hospitals. Warner said 80 per cent of the 302 cases were mental commitments.

In both Brown's and Johnson's cases, prosecutors also technically ran afoul of the federal Bail Reform Act, which says the liberty of suspects in noncapital cases can be limited only if there is a risk of flight from prosecution, not if there is a likelihood of further crimes being committed. Also, it says, financial inability by a suspect to post bond cannot be a factor in restraining him.

Johnson was originally held under $50,000 bond and Brown under $10,000. Neither of them could post the necessary 8 to 10 per cent of the bond to get out.

After a week, Brown was released on personal (nonfinancial) bond, and Johnson was allowed to deposit $80 with the court as security.

Alfred Hantman, chief of the criminal division of the U.S. attorney's office in Washington, acknowledge it is a general policy to hold a "threats" suspect on high bail until a mental, criminal and narcotics check has been run on him. If he's "clean," he"ll be released, he said.

"Sure, it conflicts with the Bail Reform Act," he said, "but if you follow the Bail Reform Act, you'll just be letting the guy out to do what you're trying to prevent him from doing."

Exemption Suggested

Hantman suggested Congress should exempt threats cases from the Bail Reform Act or perhaps require a judicial hearing within 48 hours of a suspect's arrest to determine whether he should be further detained.

Two recent court rulings will make prosecutions of threats cases tougher in the future.

The Supreme Court ruled last April 21 that the law requires proof of a "true" threat to sustain a conviction, and statements made in jest or as "political hyperbole" or "idle talk" are permissible free speech.

The court ruled in the case of Robert Watts, an 18-year-old Harlem youth who said during a political rally on the Washington Monument grounds in August, 1966, that he would refuse induction into military service, but "If they ever make me carry a rifle, the first person I would like to have in my sights is LBJ." His conviction was reversed by the Supreme Court.

Soon after that, the U.S. Court of Appeals here reversed the conviction of Eugene F. Alexander, 49, an admitted drunk who called the White House one evening from a phone booth in downtown Washington, engaged Secret Service agents in a lively, hour-long conversation, uttered numerous and elaborate threats against the President involving the use of "artillery" and at the agents' request, courteously provided his name, location and telephone number.

He was arrested while still talking in the phone booth and despite his defense of drunkenness was convicted a few months later. The Apellate Court reversed, citing the Watts ruling by the Supreme Court.

The Watts ruling figured prominently in the Johnson and Brown trials this summer, with the judges in both cases emphasizing the "true threat" requirement when charging the juries.

"Most of these cases are going to wash out in the future," predicted one District Court judge in Washington.