

One Prosecutor Asserts Another 'Fabricated' Rap Brown Charge

JAN 16 1971

Special to The New York Times

ELLCOTT CITY, Md., Jan. 15—A Maryland prosecutor said here today that a fellow prosecutor had told him that he had "fabricated" an arson charge against H. Rap Brown so the Federal Bureau of Investigation could be called in if Mr. Brown should ever flee.

Richard J. Kinlein, Howard County state's attorney, made the statement about William B. Yates 2d, Dorchester County state's attorney. Mr. Yates denied the allegation.

Mr. Kinlein, in an interview, called the action against Mr. Brown, the fugitive black militant, a "phony indictment" and a "perversion of justice." He said that Mr. Yates had explained his actions at lunch here last April. Mr. Kinlein kept silent about the matter since then, he said today, "because nobody asked me."

Mr. Yates was obviously stunned by what he called a disclosure of "a confidential conversation" with his counterpart here. He nonetheless denied in a telephone interview the statements attributed to him by Mr. Kinlein. At worst, Mr. Yates contended, Mr. Kinlein had misunderstood his comments.

Two other officials—one of whom attended the luncheon meeting last April—also cast doubt on the accusation.

Francis Burch, Attorney General of Maryland, said in a telephone interview: "Based on the information I have there is a mistake somewhere. There was a misunderstanding by Mr. Kinlain."

John Garrity, who attended the luncheon when he was an Assistant Attorney General, was not available for comment. But Brice G. Kinnamon, Cambridge police chief, who was present when the alleged conversation took place, said he did not recall discussion of the arson charges.

Warrants for Mr. Brown's arrest for inciting rioting and arson were issued in Cambridge the Dorchester County seat, on July 25, 1967. Almost from the beginning, Mr. Brown's lawyer,

William M. Kunstler, has maintained that all the charges were fabrications.

During the three years of legal preliminaries preceding Mr. Brown's final trial date here last April 20, Mr. Kunstler argued that his client "could not receive a fair trial in Maryland." Today he said that it was

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"obvious that Rap Brown has been framed."

Mr. Brown did not appear here on April 20. Based on the Maryland arson charge, a Federal fugitive warrant was obtained the same day and he has been on the F.B.I.'s "10 most wanted" list ever since.

The trial had been removed from Cambridge first to Bel Air, Md., the Harford County seat just north of Baltimore. It was reassigned again to the Howard County Circuit Court here after an automobile carrying two of Mr. Brown's friends was shattered by an unexplained explosion of dynamite in Bel Air last March 9, killing both of them.

Warrants against Mr. Brown were obtained by Mr. Yates following a night of disorders and burning in Cambridge on July 24, 1967. The warrants charged that Mr. Brown had "counseled" rioting and arson by Cambridge Negroes during and after a curbside speech.

Mr. Brown fled Cambridge after suffering a superficial shotgun wound and was arrested by the F.B.I. two days after the rioting at Washington National Airport.

Mr. Kinlein said that Mr. Yates had explained that the arson portion of the charges had been added because inciting to riot, the other count, is a misdemeanor in Maryland and, accordingly, is not sufficient grounds for F.B.I. participation in a manhunt.

Under Federal rules, a Federal fugitive warrant invoking an F.B.I. search can be obtained only for fugitives from felony charges.

Mr. Kinlein first made his accusation to the Montgomery County Sentinel of Rockville, Md. He elaborated on that statement today.

Indictment Aids Manhunt

On Aug. 14, 1967, a Dorchester County grand jury under Mr. Yates's direction indicted Mr. Brown on the arson and rioting charges. An F.B.I. manhunt was ordered begun last April 20 under the 1967 indictment when Mr. Brown failed to appear here for trial.

Recalling the conversation at the luncheon meeting, Mr. Kinlein said that Mr. Yates "admitted to me that he had placed the arson charge against Brown for the purpose of getting a fugitive warrant in case Brown did not appear."

"I thought the whole thing was shocking," Mr. Kinlein said. "I asked him, 'What evidence have you to support the arson charge?' The prosecutor continued that Mr. Yates then acknowledged that it was solely 'to get the F.B.I. into the case.'"

Mr. Yates said that Mr. Kinlein "must have misunderstood what I said." He explained: "I could have said—I believe I might have said—that we were elated to be able to hold the arson charge [against Mr. Kunstler's courtroom challenges] because we had the benefit of the F.B.I. accruting to the state if Brown skipped."

The Cambridge prosecutor also remembered that he may have told Mr. Kinlein that "there were advantages" in his having charged Mr. Brown with a felony "because in Maryland when you skip bond on a felony charge the penalty is five years and it is only a year on a misdemeanor."

Kunstler Plans Moves

Mr. Kunstler, Mr. Brown's attorney, said that if Mr. Kinlein's disclosure could be translated successfully into court action freeing Mr. Brown of the Maryland arson charge, two Federal charges pending against his client could also be attacked "and Rap Brown can go free."

One of the Federal charges—interstate transportation of a firearm while under a state felony indictment (the Maryland arson charge)—"obviously will collapse," Mr. Kunstler said, if the felony indictment on which the Federal charge is based is thrown out.

In addition, Mr. Brown is charged with threatening an



Associated Press

William B. Yates 2d

F.B.I. agent in the United States Courthouse in New Orleans during a recess in a hearing on the gun charge. "He wouldn't have been there but for this phony Maryland indictment," Mr. Kunstler said. "I think we can attack that one, too." Another in a long series of hearings in that case comes before Judge Alvin Rubin in New Orleans on Monday.

Mr. Kunstler said he would demand the suspension of Mr. Yates pending an investigation of "prosecutorial abuses," preferably by a commission appointed by Gov. Marvin Mandel of Maryland. "We are considering the possibility of civil action against Mr. Yates and others," Mr. Kunstler said. "I am going to see the United States attorney in Maryland about criminal action because it is a serious Federal offense to interfere with a person's civil rights under color of law."

See this file 21 Oct 71.