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H. RAP BROWN

Rap Brown Fake Count Is Denied

By THOMAS LOVE
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The prosecutor who charged H. Rap Brown after the 1967 Cambridge, Md., riots has denied that he fabricated evidence to indict Brown on a felony charge merely to insure federal fugitive warrant in case the black militant didn't appear for trial.

The allegation was made by Richard J. Kinlein, state's attorney for Howard County, the third and final site of preliminary proceedings for Brown's trial, who said the prosecutor who secured the indictment told him there was "no evidence" to back the arson charge.

When Brown did not show up for his trial, in which he was to be defended by well-known trial attorney William B. Kunstler, his \$10,000 bond was ordered forfeited and he was placed on the FBI's most wanted list. Brown has not been seen in 11 months.

According to Kinlein, William B. Yates, state's attorney for Dorchester County where Cambridge is located, told him over lunch late last April that he had "fabricated the felony charge so that he could get a fugitive warrant" if Brown skipped bail.

Denies Statement

Last night Yates said, "I didn't say such a thing as that. There was enough evidence to try him before a jury of his peers. I would go ahead with the prosecution now. I think I could get a conviction even after all these months."

He remembered the lunch, he said, but added, "Kinlein never asked me about the evidence. I may have said there were some benefits occurring if the arson charge were left in. If that part stayed in, we would have a better shot at Brown."

"Under Maryland law, there is a penalty for jumping bond. If it's for a felony, the penalty is five years. If it's for a misdemeanor, the penalty is one year," he said.

Brown was indicted in August 1967 on arson, inciting to riot and riot charges by a county grand jury. Incitement and riot are common law misdemeanors, Kinlein said, and federal fugitive warrants are issued only for persons who fail to appear for felony proceedings.

"We were discussing the first count of the indictment, which

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has multiple counts," Kinlein said. "I asked him (Yates) 'Where is the evidence of arson?' He answered, 'It's only in there so there will be a felony charge against him so we can get a federal fugitive warrant.'"

Questions Statement

Yates said, "I can't understand him disclosing anything (we said at lunch). It was sort of confidential. Anyway, we didn't know he (Brown) wouldn't appear, so why should I say that?"

During the pretrial motions, the defense challenged the indictments. Yates explained, "The prosecution's place is to hold all the charges he can— to oppose defense motions," he said.

John J. Garrity, then an assistant Maryland attorney general, and now a Prince George County commissioner, said he was present at the lunch. "I remember discussing something about the arson count with Kinlein. I don't know if Yates was included.

"I am in no position to discuss the evidence in the Brown case. I don't think it would be proper for me to comment on it," he said.

When asked if he had ever advised against trying Brown on the arson charge, Garrity replied, "No comment." At the time of the trial, he was assigned by the attorney general to help Yates in the case.

Kinlein, who was involved in the trial because it was taking place in his county, said Yates' actions were "inexcusable" and "not justified." He called the "phony indictment a complete perversion of justice."

He also accused Yates of refusing to collect Brown's bond money even though the judge handling the trial had ordered it forfeited. Yates said it was Kinlein's responsibility since he started the action to recover it.

Cambridge Rioting

On July 24, 1967, rioting and burning followed a speech by Brown in which he reportedly said, "It's time for Cambridge to burn, baby. Black folks built America. If America doesn't come around, we're going to burn America down."

During the rioting, there was about \$300,000 damage to the Black 2nd Ward before National Guardsmen moved in with tear

gas. Fire leveled 20 buildings, and 30 persons were left homeless.

Brown was one of three Negroes slightly wounded by shotgun fire that night, the source of which has never been discovered. One policeman also was injured.

Two days later, Brown was arrested at Washington's National Airport on a federal fugitive warrant based on the arson charge. Kunstler assailed the later grand jury action as "shotgun indictments including everything but the kitchen sink."

In the summer of 1969, Yates asked that the trial be moved from Cambridge to another location, claiming that it could cause "a dangerous situation" in the Eastern shore town which saw three riots during the 1960s.

Kunstler objected, claiming that Brown could get a fairer trial in Cambridge which is 30 percent black and "where he has some constituency." The trial was moved to Bel Air in Harford County, which is about seven percent black. Following postponements, the trial began last March 2.

Car Blast Killed 2

On the night of March 9, two friends of Brown were killed when their car exploded near Bel Air. FBI and state police reports indicated the blast was from "unconcealed" explosives inside the car. Rumors that there was a third occupant — possibly Brown — were vehemently denied by authorities.

On March 11, a blast tore a corner off the courthouse in Cambridge. The case has never been solved. A week later, the prosecution asked another change of venue after the Bel Air judge said, "I think Mr. Brown can win this case."

The site was changed to Elicott City in Howard County. When Brown failed to appear in May, a warrant was issued for his arrest and his bond was revoked. He disappeared on March 7 and there has been at least one report he fled the country. On May 6, he was added to the FBI's most wanted list.

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