

Arson Charge Against Brown Termed False

*Newspaper
January 15, 1971*

An arson charge filed against H. Rap Brown after the Cambridge, Md., riot of 1967 was "fabricated" by Dorchester County State's Attorney William B. Yates to insure that the FBI would be called into the case if Brown fled, another Maryland prosecutor said yesterday.

Brown, the black militant and former chairman of the

Student National Coordinating Committee, disappeared last March, two days before he was scheduled to appear for trial on charges arising from the 1967 Cambridge disturbances. He has not been seen publicly since then.

Richard J. Kinlein, the Howard County state's attorney, an elected official, said that Yates had admitted to him that he maintained an arson charge in order to have the felony case necessary for federal involvement, in the event that Brown did not appear for trial.

The other charges against Brown were misdemeanors, which would not have brought federal officers into the search for him.

Kinlein, who assisted in the prosecution, said yesterday that Yates' action was "shocking . . . In my judgment, there was no evidence (on which) to charge arson."

Repeated attempts to reach Yates for comment yesterday were unsuccessful. Messages left for him at places where he was reported to be brought no response.

Yates was quoted in yesterday's edition of The Montgomery County Sentinel as saying that he "held the felony count to get him (Brown) on the FBI's 10 most-wanted list."

The charges against Brown stem from a speech he made in Cambridge, Md., in July, 1967. Following that speech, fires and disturbances erupted in Cambridge, and National Guardsmen were called to restore order.

Brown was indicted by a Dorchester County grand jury in August, 1967, on charges of arson and incitement to arson, riot and incitement to riot. Yates was the state's attorney who presented the evidence to the grand jury.

The arson charges are felonies under Maryland law and are punishable by a sentence of one to 10 years each. The riot charges are "common-law misdemeanors," and have no fixed sentence.

The first federal charge, carrying a rifle across a state line, would not have been a crime if Brown had not already been under indictment for a felony, Kunstler said. It came four days after his Maryland indictment.

Brown's other federal charge of intimidating an FBI agent grew out of an incident outside the New Orleans courtroom where Brown appeared on the gun charge in 1968.

Brown was convicted in 1968 on the gun charge, but he failed to appear for sentencing last September, and his \$15,000 bond was revoked.

A hearing on motions in the intimidation case is scheduled for Monday in U.S. District Court in New Orleans. Kunstler said he will seek a postponement of the hearing.

Maryland case

In Maryland, Brown was indicted by a Dorchester County grand jury in August, 1967, on charges of arson and incitement to arson, riot and incitement to riot.

The charges stemmed from a speech in Cambridge, Brown gave in which Yates maintained that Brown called for the burning down of a school, which was destroyed two hours later.

The riot and incitement to riot charges are common-law misdemeanors. The arson charges are felonies. If there had been no felony charge pending at the time Brown failed to appear for his Maryland trial last year, the state would have been unable to secure a federal fugitive warrant and bring the FBI into the search.

The federal fugitive warrant resulted in the FBI placing Brown on its "10 Most Wanted" list.

'Chain of Events'

"What we have is a chain of events, all stemming from the original fabricated charge," Kunstler said. "Without this chain of events, Rap Brown would not be in exile today. This was part of the conspiracy of a venal state's attorney and a federal government that will stop at nothing in its campaign to destroy black militants."

Kunstler said that the state investigation he is seeking should be conducted publicly, with Brown's attorneys being given the opportunity to call in their own witnesses and cross-examine opposition witnesses. He said he was also asking Mandel to seek criminal charges against Yates.

Also, he said he is talking to the Justice Department to investigate whether this was a joint venture of the federal government and the state of Maryland in 1967 to get Rap Brown.

In addition, Kunstler said, he is looking into the possibility of asking the U.S. attorney

for Maryland to indict Yates for violating a federal law prohibiting the use of state powers to deprive someone of his civil rights.

In an interview yesterday, Kinlein reiterated his allegation to the Washington Post that Yates filed the arson charges against Brown to assure that the FBI would join in the search if Brown failed to appear for trial.

Kinlein said that he had lunch with Yates and John J. Garrity, a former Maryland assistant attorney general who was assisting in the Brown prosecution last April. The lunch came just after Howard County Judge James MacGill had thrown out the incitement to arson count against Brown.

'Back Off'

At that time, Kinlein said, he and Garrity told Yates that he should "back off" from the arson charge because, "You don't have the evidence to substantiate it."

Kinlein said that Yates then said that "he put—and I distinctly remember the word 'put'—that he had 'put' the arson count in there (in 1967) so that in the event Brown didn't show up for trial he would be able to get a federal fugitive warrant.

"We (Garrity and Kinlein) recognized the defective draftsmanship of the indictment. Judge MacGill picked it right up (in dropping the incitement to arson charge). Judge (Harry E.) Dyer (Jr.) had picked it up before and that's what caused him to make the statement that led to the removal (to Howard County)."

Brown's trial, after being moved from Dorchester County, was next scheduled for Harford County Circuit Court before Judge Dyer on March 15. Yates demanded that the trial site be moved again when Dyer publicly stated that Brown should show up for trial because he stood a good chance of being acquitted.

Two Killed

Brown's statement came after two of Brown's friends, former SNCC official Ralph Featherstone and William (Che) Payne were killed in an automobile blast two days before the scheduled trial date last March. Brown has not been seen publicly since that time.

Burch, the state attorney general, yesterday disputed Kinlein's version of the lunch with Garrity and Yates. Burch said he was told by Garrity "that Dick (Kinlein) must have misunderstood" Yates' reason for bringing the arson indictment.

Garrity has told The Post that he had never heard Yates say that his sole reason for bringing the arson charge was to insure federal involvement.

Burch said that he would have to meet with Mandel before determining what to do with Kunstler's requests. A spokesman for the governor said he would meet with Burch sometime after Mandel returns from the Super Bowl in Miami. A Justice Department spokesman said that agency would "take a look" at Kunstler's request to Mitchell.

'Copter R..

"Hand in Glove"

The lawyer said that it appears that Yates "was working hand in glove with the federal government" in order to stop Brown from preaching his black power message.

Kunstler reiterated his claim that Brown is innocent of all charges. "I've said it at every stage in this courtroom episode," he said.

Last March, Brown failed to appear for trial in Bel Air, Md., on the arson and riot counts and his \$10,000 bond was revoked. Later his \$15,000 bail on the gun charge was revoked when he didn't appear for sentencing on the gun charge in New Orleans.

After Brown didn't show up for trial in Maryland he was put on the FBI's "10 most wanted list." Once an anti-poverty worker in Washington, Brown has been reported to be living in such places as Algeria, Cuba and Asia, as well as parts of the U.S.

Due in New Orleans

Kunstler said that Brown is scheduled to appear at U.S. District Court in New Orleans on Monday on a charge related to the gun count. This charge is that he intimidated a federal officer after a hearing on the gun charge.

The lawyer said he will seek a delay in this matter in light of Kinlein's statement that the original arson count was illegitimate.

Kunstler, in a telephone interview from his home in Westchester County, N.Y., also urged that Gov. Marvin Mandel suspend Yates "pending an investigation." He said that he and other lawyers would like to participate in the probe.