

Magruder, Defense Differ on

By George Lardner Jr.
Washington Post Staff Writer

The jurors at the Watergate cover-up trial were given a multiple-choice description yesterday of John N. Mitchell's approach to the break-in that started it all:

(A) Absent-minded (B) Tight-fisted. (C) Completely ignorant.

Jeb Stuart Magruder, Mitchell's deputy in President Nixon's 1972 re-election effort, suggested (A) and (B). The former Attorney General's lawyers, voted for (C), but Magruder gave them little help.

Speaking into a microphone propped up on a stack of Bibles, prosecution witness Magruder held firm to his testimony that Mitchell had approved the June 17, 1972, Watergate bugging and break-in at a meeting on Key Biscayne, Fla., on March 30, 1972.

But Magruder acknowledged that he had to give his pipe-smoking boss a refresher course less than a week later when Mitchell called and asked why Watergate burglar G. Gordon Liddy was pressing for so much money.

The 39-year-old witness said he hurried into Mitchell's offices at Nixon campaign headquarters here and reviewed "the Liddy plan" with him once more.

"I indicated the reason he (Liddy) needed so much was that it was, in effect, 'front money,'" Magruder recalled. He said he told Mitchell that Liddy had to make large outlays to "hire people and purchase equipment."

"Mr. Mitchell understood," Magruder said.

The amount that Liddy got was not mentioned, but testimony in other forums that have dealt with the Watergate scandal has put it at \$83,000.

According to Magruder, Mitchell had approved a \$250,000 budget for the political spywork—the week before at Key Biscayne under the code name of "Project Gemstone." But Magruder indicated that like any boss, Mitchell was still distressed a few days later when he learned from campaign treasurer Hugh Sloan how big a bite of the ap-

Mitchell Role

ple Liddy wanted right away.

One of Mitchell's defense lawyers, Plato Cacheris, suggested that Mitchell, who has denied approving Project Gemstone, had expressed surprise that Liddy was trying to requisition any money at all.

Magruder denied it. "He [Mitchell] said only, 'Why does he need that much money,'" Magruder emphasized. "I was

quite surprised that he needed that much money also."

Under cross-examination all day at the cover-up trial, Magruder acknowledged that Mitchell was not at all keen about Project Gemstone at the meeting on Key Biscayne and had even asked at one point: "Couldn't we delay the plan?"

Magruder said he told Mitchell that they couldn't. "I told Mr. Mitchell we were at the point of no return," he testified, adding that Liddy had been complaining he needed a decision if he was to undertake any of the programmed political espionage at all.

Finally, he said, Mitchell announced, "certainly not in an enthusiastic way . . . 'Go ahead and give him the \$250,000 and let's see what he can come up with.'"

"He was not favorably inclined toward the program," Magruder said. "But that does not dismiss the fact that he approved the program, however reluctantly . . . It was a throwaway decision."

It was a throwaway day at the cover-up trial as well. Spectators began lining up for seats outside the U.S. courthouse as early as 2 a.m., but anyone looking for more than light moments, a peek at the five defendants, and perhaps an autograph or two would have been disappointed.

Aside from Mitchell's ambivalent feelings about Project Gemstone, the only other big

question of the day was who got the fire going in Magruder's fireplace two days after the bumbled break-in and bugging of Democratic National Committee headquarters here was discovered.

Magruder had told the Senate Watergate committee last year that it was agreed at a meeting in Mitchell's Watergate apartment on the evening of June 19, 1972, that Magruder's Gemstone files ought to be destroyed.

Subsequently, Nixon campaign deputy Frederick C. LaRue, who also attended the meeting, testified that Mitchell had stated it would be a good idea if Magruder "went to have a good fire" with the documents.

Cacheris told the jurors that it was not until months later, in an interview with Watergate prosecutors on Dec. 27, 1973, that Magruder himself ever attributed the fire to Mitchell.

"That was when the fire started, right?" Cacheris demanded of Magruder's meeting with the prosecutors.

Magruder disagreed, saying that his memory had been "refreshed" by LaRue's Senate testimony and perhaps a conversation that Magruder had with LaRue later on.

Now serving a 10-month-to-4-year prison term for his role in the Watergate scandal, Magruder said yesterday that he also "agreed" with White House aide Gordon Strachan on the morning of June 19, 1972, to destroy his Gemstone files. The witness said that Strachan, a deputy to former White House chief of staff H. R. Haldeman, told him he would do the same.

After the meeting with Mite-

hell that evening, Magruder, who had the Gemstone documents in his car, drove out to the Linden Hill tennis courts in Bethesda, played a game with then-Vice President Agnew, and finally went home to burn the files. During the tennis game, he kept the documents with him, plunking them down beside the playing court.

"You took a sensitive file and put it on the tennis court?" Cacheris asked.

"No," Magruder replied, breaking into laughter. "I put it in my briefcase and put it on the tennis court. After I left the tennis court, I had a

fire—excuse me, I went home and had a fire."

In any case, Magruder's recollection of the meeting in Mitchell's apartment did not entirely square with that of the government's chief witness, former White House counsel John W. Dean III has testified that he was the last to arrive at the meeting and that Magruder was already there with Mitchell, LaRue and another Nixon campaign deputy, former Assistant Attorney General Robert C. Mardian. Dean said he heard nothing about burning documents after he arrived. Magruder, Dean added, left shortly after Dean stepped in the door.

By contrast, Magruder said, he was the one who arrived late. He said Dean and the others were already chatting when he walked into the meeting. It was after that, by Magruder's account, that Mitchell suggested he have a "fire."

The trial session yesterday began late and ended early, evidently because of the absence of Mardian's chief defense lawyer, David G. Bress. He is reportedly ill with a throat ailment and his condition was said to have been discussed at a lengthy chambers conference with Judge John J. Sirica yesterday morning.

Sirica ordered the discussion kept under seal. Then, in late afternoon when it came round to the turn of Mardian's lawyers to cross-examine Magruder, the judge held another whispered conference with Mardian attorney Thomas Green and then adjourned for the day. There were unconfirmed reports that Green



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Defendant Ehrlichman strolls past statue of Sir William Blackstone, 18th Century jurist and interpreter of law.

might ask today for a separate trial for Mardian unless Bress's condition improves.

Former President Nixon's critical condition, meanwhile, touched off another spate of corridor gossip ranging from suggestions that the whole trial might be moved to California to predictions that former White House aide John D. Ehrlichman's lawyers will move for a mistrial unless Mr. Nixon's testimony can be obtained.

Ehrlichman's lawyers have called Mr. Nixon's testimony, either in person or by deposition, "indispensable" to Ehrlichman's defense. None of the other defendants at the conspiracy trial—Haldeman, Mitchell, Mardian and Nixon re-election campaign lawyer Kenneth Wells Parkinson—have gone quite that far although Haldeman's lawyers

have said they, too, want the ex-President's testimony.

"There is precedent for taking the jury to California," one source asserted, "and some think this judge would do it" if Mr. Nixon's condition improves to the point where he can testify at all.

Virtually no one thinks, however, that Sirica would declare a mistrial because the ex-President's testimony cannot be obtained.