

Magee Trial Evidence Mixup

Some of the evidence in the murder trial of Russell Magee was discarded as garbage by Hall of Justice janitors yesterday.

The inadvertence was discovered when the jury of six men and six women began deliberations for the second day and reported that the exhibits were missing from the jury room.

The jury was sequestered for the night after deliberating until 5 p.m. It was the first full day of deliberations, which are scheduled to resume at 9 a.m. today.

Deputy Sheriff Les Feliciano, who had supervised the cleaning of the jury room by the janitors, went to the basement of the Hall of Justice and found the missing evidence.

The recovered exhibits included a number of photo-

graphs, and lead pellets and slugs from a shotgun and a pistol. They were among more than 300 trial exhibits sent into the jury room on Monday.

Magee's attorney, Robert Carrow, said the incident justified the declaration of a mistrial, but the motion was turned down by Superior Court Judge Morton R. Colvin. Judge Colvin also overruled two other motions by Carrow for a mistrial. Carrow claimed that some exhibits given the jury were marked in an "inflammatory" manner, and at least one document which was not a legal exhibit in the trial was sent into the jury room.

Magee, a 34-year-old San Quentin convict, has been on trial since November 27 here for the murder of Marin County Superior

Court Judge Harold J. Haley during a courtroom escape attempt at the Marin County Civic Center on August 7, 1970.

The jury, which has been sequestered since taking of testimony began January 15, began deliberations at noon on Monday.