

Defense Is Unable to Shake Magruder's Account of the Cover-Up

SPECIAL TO THE NEW YORK TIMES
 WASHINGTON, Oct. 31—Defense lawyers questioned Jeb Stuart Magruder vigorously today in an apparent effort to shake the account he gave yesterday about the Watergate cover-up.

They brought out some conflicts between Mr. Magruder's testimony at the cover-up trial in United States District Court and his earlier statements elsewhere. They occasionally shook his composure and once had him laughing at his own testimony.

However, they did not get him to retract any of the major charges he made yesterday.

Mr. Magruder, once the deputy director of the Committee for the Re-Election of the President, is an inmate in a Federal penitentiary as a result of his guilty plea last year to conspiracy in the cover-up.

4 Defendants Implicated

In his testimony yesterday, much of it a repetition of his comments before the Senate Watergate committee, he implicated four of the five defendants in the case—John N. Mitchell, the former Attorney General, H. R. Haldeman, the former White House chief of staff, Kenneth Wells Parkinson, a former lawyer for the campaign committee, and Robert C. Mardian, a former Assistant Attorney General, and campaign official—leaving only John D. Ehrlichman, the former White House chief adviser on domestic matters, undamaged by his account.

This morning he was questioned by Plato Cacheris, one of Mr. Mitchell's attorneys.

He seemed to back down a bit on one of the most serious points he made yesterday, that



Jeb Stuart Magruder outside U.S. District Court.

Mr. Mitchell, then the director of President Nixon's re-election campaign, had approved on March 30, 1972, the intelligence-gathering plan that led to the break-in of the Democratic National Committee's offices on June 17, 1972.

Mr. Magruder told the jury, under prodding from Mr. Cacheris, that he had told Mr. Mitchell on March 30 of the "indications" he had received of "White House interest" in the intelligence-gathering plan, including messages from Charles W. Colson, then a special counsel to Mr. Nixon, about the importance of getting "information" about Lawrence O'Brien, the Democratic National Chairman.

The Mitchell defense team is trying to shift the blame for Watergate from the re-election committee to the Nixon White House.

Mr. Magruder said that Mr. Mitchell had responded in that March 30 conversation, "Couldn't we delay the plan?" Mr. Magruder said he had

replied to Mr. Mitchell that "we were at the point of no return" because G. Gordon Liddy, the committee employe who had drafted the plan, had to have a decision.

But then Mr. Magruder repeated his earlier assertion that Mr. Mitchell had concluded the meeting by approving the plan, though unenthusiastically.

Then he testified that, about one week later, Mr. Mitchell had called him to ask why Mr. Liddy had just made a request for a large sum of money. Mr. Magruder said he had told Mr. Mitchell that Mr. Liddy needed the funds as "front money" for the plan, and that Mr. Mitchell then indicated he "understood."

Mr. Cacheris tried to get Mr. Magruder to retreat from this contention, mentioning that a report by the Federal Bureau of Investigation of an interview with Mr. Magruder on April 19, 1973, after he began cooperating with the authorities, said that Mr. Mitchell had

not given "absolute" approval of the Liddy plan.

Mr. Magruder replied that the F.B.I. was "paraphrasing" his remarks, adding that "that should be made clear to the jury."

Then he said that he had been nervous the day of the F.B.I. interview and that he had been trying to be "very specific." He said that the word "absolute" was a reference to his statement that Mr. Mitchell's approval of the plan had not been "enthusiastic."

Tennis With Agnew

Mr. Cacheris turned later to another of Mr. Magruder's statements yesterday, that Mr. Mitchell had told him on the evening of June 19, 1972, to "have a fire" at his house to burn the file containing the Liddy plan. Mr. Cacheris brought out that Mr. Magruder had never testified about this alleged order from Mr. Mitchell in earlier testimony, implying that Mr. Mitchell had never given such an order or Mr. Magruder would have remembered it earlier.

The lawyer then asked, "Did you immediately leave and go to destroy the file?" Mr. Magruder said no.

Q. What did you do?
 A. I drove to Bethesda and played tennis.

Q. You played tennis with a man named Agnew? [Mr. Cacheris was referring to former Vice President Spiro T. Agnew.]
 A. Yes.

Well, Mr. Cacheris said, did Mr. Magruder leave the file containing the Liddy plan in the car?

Mr. Magruder began to smile. No, he said, he took it to the tennis court.

"You put this sensitive file on the tennis court?" Mr. Ca-

cheris asked.

Mr. Magruder began to laugh. "I put it in my briefcase," he said, "and put it on the tennis court."

Then what happened, Mr. Cacheris asked.

"I returned home and had the fire," the witness said.

Mr. Magruder was questioned later by Frank Strickler, one of Mr. Haldeman's lawyers. Mr. Strickler elicited the concession made yesterday under questioning by Jill Wine Volner of the prosecution, that Mr. Magruder had begun to work on the cover-up as soon as the break-in occurred and that he had done so without any instructions from Mr. Haldeman.

Mr. Strickler also drew from Mr. Magruder the statement that some of his testimony at the Senate Watergate hearings involving John W. Dean 3d's supposed involvement in the planning of the intelligence-gathering operation was inaccurate.

"I probably misspoke," the witness said.

Mr. Strickler also elicited testimony regarding Mr. Magruder's plea bargaining with the prosecutors. But he did not get any substantial retractions of the testimony that Mr. Magruder gave yesterday.

Mr. Magruder will be cross-examined tomorrow by lawyers for Mr. Parkinson, who was hired by the election committee after the break-in.

It is unclear whether lawyers for Mr. Mardian will cross-examine tomorrow. David G. Bress, who is representing Mr. Mardian with Thomas C. Green, is ill, apparently with a serious throat condition. There was some talk today about severing Mr. Mardian's case as a result.

Attorneys for Mr. Ehrlichman declined to cross-examine Mr. Magruder.