

They Knew the Jig Was Up

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Tucked away in the pages of impeachment evidence is a tale of power lost and reputations ruined.

John N. Mitchell and Jeb S. Magruder are the central characters in this Kafkaesque story. They had been the loyal servants of higher authority and now, in those anguishing days of mid-April a year ago, when the Watergate case was about to break publicly, they knew that events had closed in on them.

In the words of John D. Ehrlichman, they knew "the jig was up."

What they didn't know was they were being used as foils by the President and

his men in the hope that their culpability would, in the President's term, protect "the door of the White House."

Each was spoken to at length by key White House aides. Without their knowledge each conversation was recorded with the intent of possibly using their words against them.

The Judiciary Committee has now made public transcripts of those secretly taped conversations. They provide an intimate glimpse both of a personal tragedy and of the desperate Byzantine maneuvering engaged in by the President and his closest associates as Watergate began to unravel.

See RUIN, A15, Col. 1

RUIN, From A1

Magruder's taping occurred first. On April 13 he was called by Lawrence Higby, an aide to H. R. (Bob) Haldeman. It was the day Magruder had first gone to the prosecutors to begin telling what he really knew about Watergate, and the press was starting to report that major development.

The initial conversation went like this:

Higby—Say, I wanted to call you. I've just picked up a story here that really bugs the shit out of me. Ehrlichman just called down here and says that he's received word that you have talked to two reporters and given the story out with regard to Watergate.

Magruder—That bullshit.

Higby—That said that you had talked to them and in the story, you mention the fact that you'd talked to Haldeman regarding the bugging, in general and the Watergate specifically.

Magruder—I don't know what he's talking about.

The conversation continued, Higby talking tough and threatening, Magruder denying he had spoken to the press. Magruder tried to make the point that none of that mattered any more, but Higby bulldozed ahead.

Finally, Magruder said:

"Well, Larry, look, you know, the game is over on this whole thing and I certainly not going to go and tell a reporter or two reporters, and if I do, I'm not going to tell them a story that's absolutely ridiculous."

But Higby kept boring in, while Magruder attempted to make him realize something far more serious was at stake than any press accounts.

"I don't see that I can stonewall it, Larry, probably," he said, and then added:

"I think I am going to be in Lewisburg quite soon Larry."

Still, Higby didn't get it.

"Who is?" he asked.

"I am," Magruder said.

He went on to say:

"... This fooling around. I'm not talking about published stories. I'm probably going to jail, Larry. God damn it."

And:

"I've committed perjury so many times now that I'm, uh, you know, I'm uh, I've got probably a hundred years on perjury alone."

Still, Higby persisted.

"Well, I just couldn't believe you'd go around telling—"

Others were in his position, Magruder said. "Our lives are ruined right now anyway. You know, most of ours. Mine is certainly and so will many others before this is over. I think we ought to realize that."

Still, Higby pursued his theme. Ehrlichman "was go God damned sure about it," meaning that Magruder had talked to the press.

Magruder then lost his patience.

"Well you tell Ehrlichman to go to hell. For me. I mean, you just tell him that. I'm tired of this bullshit. You know, we're not playing games any more. I is going to go to jail, Larry. You know, I mean there's no question about it. I'm going to jail. The question is for how long, is all the question is now."

The game had changed, he was facing perhaps as much as a 125-year term in jail, there was no way out.

Still, Higby said, "You can't screw this place in the process of doing that, for long term or short term."

In the next tormented passage, Magruder utters his own epitaph: "I can't lie any more." He had been to the grand jury, he had protected John Mitchell, he had protected the President "when it was important," but "the story is going to come out," particularly since "half the White House staff has been down to the grand jury."

He goes on to say who he will implicate—John W. Dean III, Gordon Strachan, Mitchell—but not the President.

They had been talking a long time now when Higby's phone rings. "Oops," he says, "That's Haldeman calling from the President's office. Bye."

The next passage is intriguing. It raises the possibility that all this time Haldeman has been privately listening in on their conversation. The transcript records the scene this way:

Higby speaks immediately to Haldeman.

Higby—Yes, sir.

Haldeman—Do you believe Magruder?

A 21-second silence then occurs. No more conversation is recorded between Haldeman and his aide. But Higby and Magruder continue talking—whether Magruder had been put on "hold" is uncertain—with more of the same—and still Higby is preoccupied with the press.

Magruder tells him: "I would hope you all were thinking more in terms of the big picture now, and I wouldn't worry about the press anymore. There's going to be lots of stuff floating and I'd worry about—"

Throughout the conversation Higby has asked leading questions about what Magruder might say about Haldeman, and has assured Magruder that the President wants him to tell the truth.

(A year later, as he was about to go to jail, Magruder recalled that conversation in his book, "An American Life." "I felt much better after my talk with Higby," he wrote. "He said the President wanted me to tell the truth, and I was telling the truth. Everyone was pleased. I didn't learn until later that our talk had been taped; then I realized that the assertion about the President's wanting me to tell the truth and the leading questions about

Haldeman were intended to be part of Haldeman's defense.)

Early the next morning, the President, Haldeman and Ehrlichman met for a long discussion of the Watergate problem. Magruder had picked up a story, the President was told, that someone had said Mr. Nixon, Mitchell, Haldeman, Charles Colson and Dean all knew about Watergate.

The President asked if Magruder believed that.

No, Ehrlichman said, and then told about the secret taping of the conversation between Magruder and Higby.

"Higby handled it so well that Magruder has closed all his doors now with this tape," Ehrlichman said.

When Mr. Nixon asked what good that will do, Ehrlichman replied:

"Sir, it beats the socks off him if he ever gets off the reservation."

The President asked if such a tape could be used legally. Haldeman said no law required disclosure of a secret recording in the District of Columbia.

They then began to talk about a greater concern—John Mitchell. Through "innuendo" from Colson, they had heard that "Mitchell has put Magruder up to this."

The President said: "... by reason of Magruder nailing Haldeman and Colson, that that's the door of the Oval Office." At that point they began talking about contacting Mitchell to tell him "the jig is up."

That April 14 was a critical time. They knew that E. Howard Hunt Jr. was about to testify, probably about blackmail payments and perhaps the Ellsberg affair and the break-in of Las Vegas newspaper publisher Hank Greenspun's office in regard to a Howard Hughes connection. They knew that Colson had been urging the President "to be able to say afterward that you (the President) cracked the case." They knew they had only a matter of hours—two days at the most—"For the White House to get out in front of this."

Mitchell is a key. If they can get the former Attorney General to confess they might be able to contain the situation—and certainly for the President to take credit for acting on knowledge he has just received. If they can persuade Mitchell to go to the U.S. attorney "it redounds to the administration's advantage," Ehrlichman tells the President. For then the President would be able to call in Mitchell as the "provable wrong-doer."

Then, Ehrlichman tells the President, you can call in Mitchell and say, "Now, John for (expletive deleted) sake go on in there and do what you should. And let's get this thing cleared up and get it off the country's back..."

Haldeman agrees. "Plus the other side of this is that that's the only way to beat it now," he says.

Perhaps, they say, if Mitchell goes the U.S. attorney will drop the cover-

up investigation. Then Ehrlichman can release a report saying "there are no other higher-up." That would "put a cap on it," the President says.

The President asks Ehrlichman to meet with Mitchell that day, but then wonders: "Suppose you get stonewalled with Mitchell."

"I tell you, it is not what Mitchell says that matters today," Ehrlichman answers. "It is the fact that you have acted on information you have today."

Ehrlichman says he wants a tape recorded record of his Mitchell meeting and is going to "get my office geared up so that I can do that."

"Well go gear it up," Mr. Nixon advises. Then he hesitates. Wait a minute. "I don't want to hear the record . . . don't have me hear the record."

At 1:10 o'clock that afternoon Mitchell arrives in Ehrlichman's White House office. The secret tape recorders have been geared up, and are working.

Ehrlichman is deferential. "Sorry to drag you down here this way, but things seem to be moving and I thought you'd better know what we know."

The President was troubled, he told Mitchell, because it seemed that "some people thought that their silence served his purpose at this point." He didn't want anybody to labor under a misapprehension that there was "any overriding consideration in his interest of anybody remaining mute." The President felt that his interest is better served by "having this thing aired, disposed of, and put, put behind us, so to speak."

Ehrlichman tells Mitchell that Magruder has decided to make "a clean breast of things and to take a guilty plea," that the U.S. attorney is focusing on the obstruction-of-justice aspect of the case in the Watergate aftermath; that Hunt has been induced to testify; and that John Dean is involved.

"Poor John is the guy that just caught in the middle . . ." Mitchell says, "like, uh, like so many others that were first of all trying to keep the lid on it until after the election, and uh, in addition to that, to keep the lid on all the other things that, uh, were going on over here, uh, that would have been worse, I think, than the Watergate business."

Mitchell is different from Magruder. He is tougher, more laconic. He throws the ball back at the White House. He does not talk about going to jail, nor give any kind of Magruder-like statement that "I can't lie any more."

His message to Ehrlichman and the President is clear and fatalistic.

"Well, let me," he begins, clearing his throat, "tell you where I stand. Uh, there is no way that I'm going to do anything except staying where I am



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Judiciary Committee staff distributes documents to reporters.

because I'm too far, uh, far out. Uh, the fact of the matter is that, uh, I got euchered into this thing, when I say, by not paying attention to what these bastards were doing."

Ehrlichman says, no, he doesn't know that. Mitchell, obviously, is not going to play their game.

After 30 minutes, carefully fencing back and forth, Ehrlichman says he has another visitor and must break up their meeting.

Can he make him comfortable, give him another office, get him an automobile? "I don't know whether

you can make me comfortable," John Mitchell says.

Ehrlichman has offered — and Mitchell has accepted — for the White House to book a commercial flight that afternoon back to New York.

Ehrlichman picks up the phone and asks a secretary to get a seat for the former Attorney General.

"First class," Mitchell says. "First class. Yeah," Ehrlichman instructs.

John Mitchell flew back first class to await his fate while Jeb Magruder prepared to go to jail.