

Magruder Says Trial Defendants Invented Story

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WASHINGTON, Nov. 1—Jeb Stuart Magruder testified today that the defendants in the Watergate cover-up trial had concocted a story about his taking money from the 1972 Nixon re-election campaign in an effort to make him a "scapegoat" for the Watergate affair.

He appeared to be accusing John N. Mitchell, former Attorney General and later campaign director, in particular.

Mr. Magruder, once Mr. Mitchell's deputy in the campaign and now a Federal prison inmate as a result of his guilty plea to conspiracy in the cover-up, conceded that he had withheld for a number of months some \$7,000 in committee funds.

He contended, though, that he had started to withhold the money only when he began to worry about being made a "scapegoat," and that he had done so only to insure that the Committee for the Re-election of the President kept its promise to pay whatever legal fees he would incur as a result of Watergate.

Says He Repaid Money

He said that he had paid the money back, on the advice of his lawyers, before the committee met its promise.

Mr. Magruder testified under cross-examination by Jacob A. Stein, the attorney for Kenneth Wells Parkinson, another of the five defendants. Mr. Parkinson was hired by the re-election committee after the Watergate break-in on June 17, 1972, to

work on legal problems arising from the break-in.

Mr. Magruder also testified that he realized today for the first time that Mr. Parkinson had "misused" the relationship between the two men—a relationship, Mr. Magruder said, that he had once considered "friendly."

Mr. Magruder said that though he had been "concerned" in late 1972 about being made a scapegoat, he realized today, after Mr. Stein's questioning, that he should have been more concerned than he was.

The 39-year-old witness acknowledged that in the summer of 1972 he took his family to Hilton Head Island off South Carolina for a weekend on a campaign committee plane.

Built Up a Residue

When he was first asked about the money that he had withheld from the committee, it appeared that Mr. Stein might be succeeding in his effort to damage the witness's credibility.

Mr. Magruder testified, for instance, that he built up a residue of money left over from money that he had received for expenses, a residue amounting to \$7,000.

But as the cross-examination progressed, the balance appeared to shift, with Mr. Magruder seeming to have his credibility as a witness bolstered to the extent that the prosecutor in charge of the case, James F. Neal, rose to tell Judge John J. Sirica that he was not objecting to Mr. Stein's repeated questioning because

"he's making this boy appear a victim."

Mr. Stein pressed Mr. Magruder about illegal acts that he had committed. Each time, Mr. Magruder gave in response an increasingly dramatic and emotional statement of his sorrow about what he had done, and that he was now serving a prison term for those acts.

"I am dreadfully, of course painfully, sorry," he said, "for the damage to myself and my family."

A few minutes later, under more prodding from Mr. Stein, he said, "I am ashamed of what I did. I am ashamed of that whole period of my life."

Mr. Stein pressed on, asking Mr. Magruder if it was not true that he had committed a whole series of misdeeds, after each of which he could have recanted, rather than a single misdeed.

Mr. Magruder replied that it was a "very complicated" situation—he knew that if he did begin to tell the truth to the authorities and turn himself in, he would also implicate Mr. Mitchell and others, people he "felt close to" and felt loyalty for.

Loyalty to Family

Against that, he said, he also had "loyalty to my family, to the truth," and to the fact that he had made a "tragic mistake."

"I'm trying to correct that mistake," he said, "and I'm in prison because of it."

The testimony about the money and the alleged scapegoat scheme arose when Mr. Stein asked about a meeting of Mr. Magruder and Mr. Parkinson on July 15, 1972. Mr. Ma-

gruder had testified that he told Mr. Parkinson on July 13 the "true story" about the facts leading to Watergate and the cover-up that had begun, and that Mr. Parkinson had met with him on July 15 regarding a partly false statement that could be given to the authorities.

Mr. Stein seemed to be trying to show that a main reason Mr. Magruder was misusing committee funds.

Mr. Stein said in his opening statement to the jury several weeks ago that Mr. Parkinson had gone to Mr. Mitchell and reported to him what Mr. Magruder said in the July 13 meeting—including the contention that Mr. Mitchell was involved—and that Mr. Mitchell replied that Mr. Magruder was a "liar," and that he was a young man exposed to a lot of money.

Today, Mr. Stein told the judge out of the presence of the jury that he wanted to show that Mr. Mitchell had also told Mr. Parkinson that Mr. Magruder had "sticky fingers." Then, in the presence of the jury, he asked the witness whether he had known that Mr. Mitchell was "suspicious" of Mr. Magruder's use of the funds.

Mr. Stein asked him at length about whether Mr. Parkinson had asked him certain questions about his personal finances at the Sept. 15 meeting. At first, Mr. Magruder said that he could not recollect them. After a brief recess, he said that he had thought about it and could remember.

It was what he considered a friendly discussion over lunch, he said. He said that he

About His Taking Money to Make Him a Scapegoat

and Mr. Parkinson had first talked about their families, who lived in the same neighborhood. He then mentioned that he was worried about how he would be able to cope financially if he were indicted, and Mr. Parkinson then asked him about such things as his net worth and assets.

Mr. Magruder said that he had told Mr. Parkinson about these things, assuming that Mr. Parkinson was trying to help him out as a friend.

The question came up whether Mr. Magruder felt he had been misused by Mr. Parkinson. Mr. Magruder said that he did. Mr. Stein asked why. "He wasn't taking the information for the reasons I thought, obviously," was the reply.

"Now you know his purpose was to find out if you took money from the committee?" Mr. Stein asked.

"I never took any money, and you know it," Mr. Magruder reported. "That was part of the efforts of the defendants to make me a scapegoat."

Rules of Evidence

Mr. Neal objected, saying that Mr. Stein was "harassing and arguing with the witness."

Thomas C. Green, one of the lawyers for Robert C. Mardian, a former Assistant Attorney General and political coordinator at the committee, began his cross-examination of Mr. Magruder this afternoon. Mr. Green, who told the jury that his purpose was to "test" the witness's "recollections," elicited from Mr. Magruder a number of "I don't recall" or "I have no recollection" answers.

The two other defendants in the case are H. R. Haldeman and John D. Ehrlichman, former aides to former President Richard M. Nixon.

Judge Sirica said in court last week that he was "not trying to try this case on strict rules of evidence." The remark drew considerable press coverage; so did several others the judge made, including comments about Mr. Mitchell and John W. Dean 3d, the prosecution's chief witness.

Judge Sirica was not pleased. On Monday, referring to an article in that day's Washington Post about his rulings on questions of admissibility of evidence, he said that even the Supreme Court did not require a "perfect" trial.

He said that he was "doing the best" he could, and that he though his rulings were correct.

But he began to change the pattern of his rulings.

He began sustaining more objections by various lawyers about other lawyers' attempts to shortcut traditional procedures; he pointed out several times to the lawyers that there was a proper way of putting questions to a witness.

This morning, when Mr. Stein was cross-examining Mr. Magruder, Jill Wine Volner, one of the assistant special prosecutors, rose to object to one of the questions.

Mr. Stein was trying to present to the jury one of the statements that Mr. Magruder made in his testimony at the Senate Watergate hearings in 1973. Mrs. Volner said that Mr. Stein was not following the correct procedure for introduc-

ing such prior statements by a witness.

Mr. Stein turned to Judge Sirica. He quoted from the McCormick treatise on the law of evidence. He added that in this situation the "precision" of the traditional rule should not be applied to him.

Judge Sirica replied that he, too, had some quotations from McCormick. Then he read from the relevant rule included in the handbook of instructions that judges give to jurors regarding the use of prior incon-

sistent statements to "impeach" the credibility of a witness.

It says that the jury cannot consider the prior statement as evidence of the truth of that statement, but only as a guide to evaluate the weight it will give to the contradictory statement that the witness made in court.

"I'm not going outside the rule," he said.

Judge Sirica has also been criticized for appearing to overrule far more of the defense lawyers' objections than the prosecution's. This morning he overruled another of Mrs. Volner's objections, saying, "I know it doesn't please the Government, but they can't win every objection."